

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LAMBERT MBOM,

Defendant.

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) Docket Number
) 8:22-cr-109
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TRANSCRIPT OF JURY TRIAL - VOLUME 3
BEFORE THE HONORABLE PAULA XINIS
UNITED STATES DISTRICT COURT JUDGE
THURSDAY, AUGUST 10, 2023 AT 8:53 A.M.

APPEARANCES:

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United States District Court, Greenbelt, Maryland

I N D E X

GOVERNMENT'S CASE IN CHIEF -----

WITNESS: PAGE

JOHANNA YEE

Further Direct Examination by Mr. Sarma 385

Cross-Examination by Mr. Robbins 395

JEANNE MBOE-FOE

Direct Examination by Mr. Sarma 398

Cross-Examination by Mr. Robbins 426

Redirect Examination by Mr. Sarma 432

JAMES MORAN

Further Direct Examination by Ms. McKoy 442

Cross-Examination by Mr. Robbins 483

Redirect Examination by Ms. McKoy 485

* * * * *

Defendant's Argument Rule 29 Motion - Mr. Robbins 490

Government's Argument Rule 29 Motion - Mr. Sarma 492

Court's Ruling 494

Jury Instruction Conference 495

****PLEASE NOTE: PLEASE CHECK THE COURT DOCKET FOR THE
OFFICIAL RECORD OF ALL EXHIBITS RECEIVED.***

1 THE COURT: Good morning, everyone. You-all can
2 have a seat. Would the Government call the case.

3 MR. SARMA: Case is United States versus Lambert
4 Mbom, PX22-19. We are here today for Day 4 of jury trial.

5 Christopher Sarma of United States of America,
6 joined at counsel's table by Jessica Collins, Megan McCoy,
7 and FBI Special Agent Jim Moran.

8 THE COURT: Okay. Good morning.

9 MR. ROBBINS: Good morning, Your Honor. Gar
10 Robbins here with Lambert Mbom, the defendant in the case.

11 THE COURT: All right. Are we ready for the jury?

12 MR. SARMA: Yes, Your Honor.

13 THE COURT: Okay. And do we have our witness?

14 MR. ROBBINS: She's here. I saw her earlier.

15 THE COURT: Okay. Great. I don't think we have
16 any preliminary matters, so we can get the jury while we get
17 the witness. Great. Thank you.

18 (The jury came back into the courtroom at 8:54 a.m.,
19 and the following proceedings were had in the
20 presence of the jury.)

21 All right. Good morning, everyone. You can have a
22 seat.

23 Okay. We are going to pick up where we left off
24 with Ms. Yee's testimony.

25 Ms. Yee, I remind you, you're still under oath.

FURTHER DIRECT EXAMINATION

385

1 And whenever you're ready, Mr. Sarma.

2 MR. SARMA: Thank you, Your Honor.

3 JOHANNA YEE

4 having been called as a witness and having been duly sworn,
5 was examined and testified as follows:

6 FURTHER DIRECT EXAMINATION

7 BY MR. SARMA:

8 Q. Good morning, Ms. Yee.

9 A. Good morning.

10 Q. As part of your investigation in this case, did you also
11 track individual payments that Holy Health made to Francis
12 Senesie and Lambert Mbom?

13 A. Yes, I did.

14 Q. Did you look at the Holy Health bank records for the
15 Bank of America account ending in 1589 to do that part of the
16 investigation?

17 A. Yes, I did.

18 Q. And just so the jury understands, are those records
19 contained in Government Exhibits F1 through F18?

20 A. Yes, they are.

21 Q. Did you prepare summary charts with these payments?

22 A. Yes, I did.

23 Q. And do you believe that those summaries will assist the
24 jury in understanding your testimony about the payments made
25 from Holy Health both to Mr. Mbom as well as Mr. Senesie?

1 A. Yes, I do.

2 MR. SARMA: I'm going to show this F96. This is
3 for identification only.

4 THE COURT: So then not to the jury?

5 MR. SARMA: Just to the jury as demonstrative, not
6 to go in as evidence. We're moving this as a demonstrative
7 but not as substantive evidence that would go back to the
8 jury.

9 THE COURT: Okay. All right. I think I
10 understand. Let me see what it is.

11 BY MR. SARMA:

12 Q. Do you recognize this chart, Ms. Yee?

13 A. Yes, I do.

14 Q. How do you recognize this chart?

15 A. I created it.

16 Q. Would you describe for the jury what this chart is?

17 A. This is a list of all the Holy Health payments to
18 Lambert Mbom with the exception of one payment that was not
19 related that I could distinguish was related to something
20 other than Holy Health business. The rest I was not able to
21 distinguish or it's stipulated as such.

22 Q. Can describe for the jury what that one check you
23 determined was not related to Holy Health business was for?

24 A. Yes. There was one check for \$250 related to church
25 contribution in 2019.

FURTHER DIRECT EXAMINATION

387

1 Q. And according to your chart, when was the first transfer
2 made from Holy Health to Mr. Mbom?

3 A. In May 25 of 2018.

4 Q. And then this is a three-page document. I'm going to
5 stroll down here. I think you probably testified to this --
6 I think you did testify to this fact yesterday, but just for
7 the jury again, do you recall when the FBI searched Holy
8 Health's offices?

9 A. Yes, it was April 2nd of 2021.

10 Q. Based on your analysis, did you identify checks that
11 Holy Health issued to Mr. Mbom between April 2, 2021, and
12 June 5, 2021?

13 A. Yes, I did.

14 Q. How many checks were issued?

15 A. You can see the checks down here. So there's six
16 checks.

17 Q. And then was there also one issued on the day of the
18 search?

19 A. Yes. And one, as well, on the day of the search.

20 Q. What was the smallest check that was issued during this
21 period?

22 A. \$2500.

23 Q. What was the largest?

24 A. \$3500.

25 Q. Scrolling. And do you know if Mr. Mbom cashed these

1 checks?

2 A. Yes. So, some of these checks were deposited into his
3 bank account, but the vast majority were cashed, brought into
4 the bank and cashed for cash.

5 Q. I am now going to show you F97 which we're offering as a
6 demonstrative.

7 THE COURT: Okay.

8 BY MR. SARMA:

9 Q. Do you recognize this chart?

10 A. Yes, I do.

11 Q. How do you recognize it?

12 A. I created it.

13 Q. And what is this charge?

14 A. This is a list of all the Holy Health payments to
15 Francis Senesie.

16 Q. When was the first payment made from Holy Health to
17 Francis Senesie?

18 A. On February 12, 2021. That was the date that the check
19 was dated. And as you can see from the posting date, the
20 date it was deposited or cashed was on February 16, 2021.

21 Q. Just scrolling down to the next. Do you see under
22 Method of Payment, you listed "returned check" for two on
23 February 26, 2021?

24 A. Yes, that's correct. Those relate to checks that
25 bounced, so he was not able to cash or deposit them. And he

FURTHER DIRECT EXAMINATION

389

1 attempted twice, it appears, based on the fact that there are
2 two instances.

3 If you look at the row below that, you can see the same
4 amount is later sent via Cash App.

5 Q. Did you see any returned checks for Mr. Mbom?

6 A. No, I don't believe so.

7 Q. Would it help you if you looked back at F96?

8 A. Yes, it would. Oh, there was one check from -- that was
9 posted on October 3, 2018, that was not able to be deposited.
10 There was no check date on that.

11 Q. And then?

12 A. Yes. And then followed by the instance of what appears
13 to be the same check deposited on October 5, 2018.

14 Q. Going back to F97, did Mr. Senesie receive any checks
15 from Holy Health after the FBI searched the offices?

16 A. Yes, he did.

17 Q. And are these, what I just highlighted, are these the
18 checks that he received?

19 A. Yes, they are.

20 Q. I'm now going to show you what has been marked as F7a.

21 Do you -- is this a check that Holy Health issued to
22 Mr. Francis Senesie?

23 A. Yes, it is.

24 Q. And what is the date of this check?

25 A. It's dated April 23, 2021.

FURTHER DIRECT EXAMINATION

390

1 Q. And what is the amount?

2 A. The amount is \$1,194.55.

3 Q. And now turning to Page 2, is this the back of that same
4 check?

5 A. Yes, it is.

6 Q. And can you tell from the second page whether this check
7 was cashed?

8 A. Yes, I can. This stamp here indicates that it was
9 cashed for physical cash at the bank. And as you can see
10 right here, it's actually cashed at New Hampshire Avenue,
11 Maryland branch.

12 Q. And do you know what date it was cashed?

13 A. Yes. It was cashed on April 23, 2021. You can see it
14 here. It's a little bit hard to see. You can also see it
15 right here or right here.

16 Q. Scrolling down to the third page.

17 Is this a different check that Holy Health issued to
18 Mr. Francis Senesie?

19 A. Yes, it is.

20 Q. What date is this check written for?

21 A. Also April 3, 2021, but you're able to tell it's a
22 different check both in the amount and also the check number.

23 Q. And what is the amount on this check?

24 A. \$2,223.55.

25 Q. Scrolling down, is this the back of the check?

FURTHER DIRECT EXAMINATION

391

1 A. Yes, it is.

2 Q. Can you tell whether this check was cashed?

3 A. Yes, I can. Again, the stamp indicates that this check
4 was cashed for physical cash at the bank. And, again, at New
5 Hampshire Avenue, Maryland branch on April 23, 2021.

6 Q. I'm now going to show you what has been marked as F7b.
7 Do you recognize this check?

8 A. Yes, I do.

9 Q. Is this another check that Holy Health issued to Mr.
10 Francis Senesie?

11 A. Yes, it is.

12 Q. Do you know if this is a different check than ones we
13 were previously looking at?

14 A. Yes, it is. Again, you can tell by the amount of the
15 check as well as the check number.

16 Q. And what was the amount?

17 A. \$1,518.30.

18 Q. Going to the second page here, do you know whether this
19 check was cashed?

20 A. Yes. Based on the stamp that's on the back of this
21 check, you can tell that it was cashed for physical cash at
22 the New Hampshire Avenue, Maryland branch on May 14, 2021.

23 Q. Now, showing you what has been marked as F8a. Is this
24 another check that Holy Health issued to Mr. Francis Senesie?

25 A. Yes, it is. Again, you can tell it's a different check

FURTHER DIRECT EXAMINATION

392

1 based on the check number and the amount and the date.

2 Q. And what is the amount on this one?

3 A. \$3500.

4 Q. Turning to the seconded page here, can you determine
5 whether this check was cashed?

6 A. Yes. The stamp on the back here indicates that it was
7 cashed for physical cash at the New Hampshire Avenue,
8 Maryland branch on July 30, 2021.

9 Q. Going to Page 3, is this another check that Holy Health
10 issued to Mr. Francis Senesie?

11 A. Yes, it is. Again, you can tell that it's different
12 based on the amount, date, and check number.

13 Q. And what was the date it was written for?

14 A. July 30, 2021.

15 Q. And what was the amount?

16 A. \$2,500.

17 Q. And looking at the back of the check, can you tell
18 whether it was cashed?

19 A. Yes. The stamp here indicates that it was cashed for
20 physical cash at the New Hampshire Avenue, Maryland branch on
21 July 30, 2021.

22 Q. I'm now going to show you what's been marked as F7. As
23 you can see, this is Page 1 of 1,016. Is this a series of
24 documents obtained from Holy Health's bank records?

25 A. Yes, it is.

FURTHER DIRECT EXAMINATION

393

1 Q. And I can assure everyone I will not be showing you all
2 1,000 pages.

3 Okay. I'm showing you what's -- you can see the bottom,
4 page 805. Can you tell the jury what this is?

5 A. This is a check from Holy Health to Lambert Mbom.

6 Q. And what date was this check written for?

7 A. It was dated May 14, 2021.

8 Q. What is the amount for the check?

9 A. \$2,500.

10 Q. Okay. Is this the back of that same check?

11 A. Yes, it is.

12 Q. And can you tell whether this check was cashed?

13 A. Yes. This stamp right here on the back of the check
14 indicates that it was cashed for physical cash at the Queens
15 Chapel, Maryland location on May 14, 2021.

16 MR. SARMA: Thank you. I may have one or two
17 additional questions.

18 THE COURT: Okay.

19 BY MR. SARMA:

20 Q. Ms. Yee, as part of your analysis, did you also review
21 bank records from the Agatha Foundation?

22 A. Yes, I did.

23 Q. And did the Agatha Foundation have bank accounts at
24 Capital One and Congressional?

25 A. Yes, they did.

FURTHER DIRECT EXAMINATION

394

1 Q. And during your investigation, did you observe any
2 transfers of money between Holy Health and the Agatha
3 Foundation?

4 A. Yes, I did.

5 Q. And were there check transfers that you observed?

6 A. They were primarily wire transfers, but there may have
7 been a check or two, I can't recall.

8 Q. And just for us who are not accountants, can you
9 describe at a high level what a wire transfer is?

10 A. Yes. It's just a transfer that's initiated by a bank
11 from one bank account to another bank account.

12 Q. And in those transfers, which direction was the money
13 flowing?

14 A. It was flowing out primarily. There was --

15 Q. Out of what account?

16 A. I apologize. Out of the Holy Health 1589 account and
17 the Holy Health Bank of America 8983 account.

18 Q. Into what account?

19 A. Into the Agatha Congressional bank account ending in
20 7436.

21 Q. And I'm not asking for an exact number, but kind of what
22 order of magnitude: Hundreds of dollars, thousands of
23 dollars, if you recall?

24 A. I can't recall exactly the amount.

25 Q. Do you recall kind of what order of magnitude, or no?

CROSS OF JOHANNA YEE BY MR. ROBBINS

395

1 A. I think it was a small amount. I don't recall it being
2 a large amount.

3 MR. SARMA: All right. No further questions.
4 Thank you, Your Honor.

5 THE COURT: Okay.

6 CROSS-EXAMINATION

7 BY MR. ROBBINS:

8 Q. Good morning, Ms. Yee.

9 A. Good morning.

10 Q. So I'm Gar Robbins. I think we've met before. I
11 represent Lambert Mbom. I only have a few questions.

12 One of the first summary charts that you showed us, I
13 think it was S4, it was looking at the income of Holy Health,
14 and you were talking about where the cash flow came from
15 different services.

16 Did you factor in the change in status of what Holy
17 Health's role was at any point in time?

18 A. I --

19 Q. Hold on.

20 Holy Health changed from a freestanding clinic to a core
21 services agency at some point. Did that correspond to where
22 those cash flows changed? Because there was a pretty
23 dramatic difference in when CSW work picked up.

24 A. I looked at the total change as well as corresponding
25 that to the claims data. And considering the change in the

1 amount of claims, I'm not sure I understand your question.

2 Q. The question is: Did you try to compare that date to
3 when Holy Health changed from being a freestanding clinic to
4 being a core services agency? In one, you have community
5 service workers and the other you don't.

6 A. I did consider that, at least in the grand scheme
7 looking at the entire time period to try and identify what
8 might have caused that increase. It was such a drastic
9 increase that it still -- I mean, it nearly doubled between
10 2017 and 2019. So even factoring that in, the amount was
11 just so great that we were -- we looked at the trend.

12 So it was considered, but each procedure is billed at a
13 different rate. So it's not entirely comparable to
14 compare -- it's apples to oranges because the procedure code
15 rate is billed differently.

16 Q. Right. And different providers, too; right?

17 A. Can you clarify "different providers?"

18 Q. CSWs provide different procedure code services than
19 freestanding health clinic would provide?

20 A. Correct. The procedure code, my understanding, is H0036
21 versus the 90837 that we were referring to before. Those two
22 are the ones that I was referring to are billed at different
23 rates. All procedures are billed at different rates. But
24 those two primary ones that we were looking at yesterday are
25 billed at different rates.

1 Q. When you were looking at the overall cash flows of Holy
2 Health, would it be fair to say that their account varied
3 from having enough money to being barely operational?

4 A. I can't speak to what would have been operational; I
5 don't know. I'm not privy to their operation, their specific
6 operations and how much that would cost.

7 Q. Did their balance get very low on occasion?

8 A. Yes, it did go into the negatives quite frequently.

9 Q. And you looked at, specifically, for the summary
10 exhibits you showed today, checks that were immediately
11 cashed by Lambert and by Mr. Senesie. Was that uncommon for
12 the workers, or would payroll checks typically be cashed
13 immediately?

14 A. No, that was not uncommon.

15 Q. And the checks that you showed us today all seemed to
16 have the same signator -- signer -- the person who signed the
17 check, whatever the right word for that is in
18 accountant-speak. Did you identify who that person was?

19 A. I can't definitively say because it's a signature. I
20 don't feel comfortable making that assumption.

21 Q. All right. I'll leave it there.

22 MR. ROBBINS: Thank you, Your Honor. Thank you.

23 THE COURT: All right. Mr. Sarma, anything?

24 MR. SARMA: No, Your Honor.

25 THE COURT: Okay. Ms. Yee, this concludes your

DIRECT OF JEANNE MBOE-FOE BY MR. SARMA

398

1 testimony. You are free to step down, free to leave. Have a
2 great day.

3 THE WITNESS: Thank you.

4 THE COURT: Government?

5 MR. SARMA: The Government calls Ms. Jeanne Foe.

6 THE CLERK: Ma'am, if you could remain standing and
7 raise your right hand for me, please.

8 JEANNE MBOE-FOE

9 having been called as a witness and having been duly sworn,
10 was examined and testified as follows:

11 You may have a seat. And while speaking clearly
12 into the microphone, can please state your full name and
13 spell your last name for the record.

14 THE WITNESS: Jeanne Mboe-Foe.

15 THE COURT: And how do you spell the last name?

16 THE WITNESS: M-B-O-E F-O-E.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MR. SARMA:

20 Q. Good morning, Ms. Foe.

21 A. Good morning.

22 Q. I know sometimes it's nerve-racking to talk in court.
23 But could you please speak up a little bit. Use the
24 microphone, as well.

25 THE COURT: Yeah, the microphone moves, so if you

1 can move it closer to you, that would be great. Perfect.

2 BY MR. SARMA:

3 Q. Ms. Foe, what country were you born in?

4 A. Republique Democratic du Congo.

5 Q. And how many languages do you speak?

6 A. Two.

7 Q. What are those?

8 A. English and French.

9 Q. Which one is your first language?

10 A. French.

11 Q. When did you learn English?

12 A. In 2009.

13 Q. And when did you come to the United States?

14 A. 2009.

15 Q. Did you work at a company called Holy Health?

16 A. Yes.

17 Q. When did you begin working there?

18 A. Around 2013, 2014.

19 Q. When did you stop working there?

20 A. April 2021.

21 Q. Was there a particular location of Holy Health that you
22 worked at?

23 A. Yes.

24 Q. What location was that?

25 A. North Capitol Street NW.

1 Q. And what city was that in?

2 A. Washington, D.C.

3 Q. Did you use a particular work email address while
4 working at Holy Health?

5 A. Yes.

6 Q. Could you tell us what that work email address was?

7 A. Info@holyhealthcareservices.org.

8 Q. By the time -- by the end of your time at Holy Health,
9 how much were you being paid per paycheck?

10 A. Can you please rephrase the question?

11 Q. Yes.

12 Did you receive paychecks while working at Holy Health?

13 A. Yes, I did.

14 Q. And towards the end of your time at Holy Health,
15 approximately how large were those paychecks?

16 A. \$1500.

17 Q. For how long of a period?

18 A. I don't quite remember.

19 Q. Do you know an individual named Mr. Lambert Mbom?

20 A. Yes, I do.

21 Q. Did you work with Mr. Mbom?

22 A. Yes.

23 Q. Do you see Mr. Mbom in the courtroom today?

24 MR. ROBBINS: And we'll once again stipulate that
25 this witness can identify him.

1 THE COURT: All right. Mr. Mbom is next to
2 Mr. Robbins.

3 Go ahead, Mr. Sarma.

4 BY MR. SARMA:

5 Q. What role did Mr. Mbom have at the company?

6 A. He was the chief administrator.

7 Q. Outside of work, did you have a relationship with Mr.
8 Mbom?

9 A. Yes.

10 Q. Can you describe for the jury what that relationship
11 was?

12 A. I can say it was flirting.

13 Q. Did you have a physical relationship with Mr. Mbom?

14 A. Yes.

15 Q. And I know this is sometimes awkward, but can you just,
16 very high level, describe what that relationship was?

17 A. We kissed a few times.

18 Q. And at some point, did that relationship end?

19 A. Yes.

20 Q. And from your perspective, why did it end?

21 A. I can just say because I couldn't continue with the
22 relationship.

23 Q. Now, while working at Holy Health, did you work at the
24 front desk of the North Capitol location?

25 A. Yes.

1 Q. And at a high level, can you tell the jury what did you
2 do while working at the front desk?

3 A. My role was to answer phone calls, emails, check the
4 emails, check the mails, verify consumers when they are
5 coming in, to check them out and check them in.

6 Q. And did you ever give cash to consumers?

7 A. Yes, I did.

8 Q. How often did you give cash to consumers?

9 A. Every time they have been seen, like after each visit.

10 Q. Who instructed you to give the cash to the consumers?

11 A. Ms. Eugenie Bakari.

12 Q. And did you ever tell consumers that you were giving
13 them cash as a transportation stipend?

14 A. Yes.

15 Q. Was that true?

16 A. Yes.

17 Q. It's your testimony that you were giving them a
18 transportation stipend when you were handing them the cash?

19 A. I received the instruction from Ms. Eugenie saying that
20 I have to give the money to consumers and I have to tell them
21 that it's for transportation.

22 Q. Thank you, Ms. Foe. I'm asking you a slightly different
23 question.

24 Was it actually true that you were giving them cash as a
25 transportation stipend?

1 A. Can you rephrase your question?

2 Q. Did Holy Health have a van?

3 A. Yes.

4 Q. What did the van do?

5 A. Pick up consumers and drop them off.

6 Q. And where would they pick them up, generally?

7 A. They would pick them up at a shelter. And there was a
8 place where they called park.

9 Q. And where did they drop them off?

10 A. At Holy Health Care North Capitol Street.

11 Q. How much did a consumer have to pay to ride the van?

12 A. Nothing.

13 Q. Did you give consumers money even if they rode the free
14 van?

15 A. Yes.

16 Q. I think you previously testified that Ms. Eugenie Bakari
17 told you to say that these were transportation stipends; is
18 that correct?

19 A. Yes.

20 Q. And did she tell you why you were supposed to say that?

21 A. No, she never did.

22 Q. Did you ever talk to Mr. Mbom about giving consumers
23 cash when they came to the Holy Health offices?

24 A. Yes, I did.

25 Q. When was that?

1 A. I don't quite remember the period when I spoke to him
2 about that.

3 Q. Do you recall when the FBI searched Holy Health's
4 offices?

5 A. Yes.

6 Q. Was it before or after that search that you first spoke
7 to him?

8 A. It was before.

9 Q. Was it a couple months before? A couple years before?

10 A. A couple years before.

11 Q. And what did you say to him the first time you spoke
12 about it?

13 A. I told Mr. Mbom that this practice we should stop, that
14 we have to find a way to stop it.

15 Q. And did Mr. Mbom respond to you?

16 A. Yes, he did.

17 Q. And what did he say to you?

18 A. He said he is going to first talk with the CEO and COO.

19 Q. Who was the CEO?

20 A. Mr. Julius Bakari.

21 Q. And who is the COO?

22 A. Ms. Eugenie Bakari.

23 Q. And after that conversation, did you continue to pay
24 cash to consumers?

25 A. Yes.

1 Q. After that conversation, did Mr. Mbom ever see you
2 personally pay cash to consumers?

3 A. Yes.

4 Q. Where were you sitting when you handed cash to
5 consumers?

6 A. At the front desk.

7 Q. A moment ago we were talking about the van. Do you ever
8 see Mr. Mbom personally see the van?

9 A. Yes.

10 Q. Have you heard of the Agatha Foundation?

11 A. Yes.

12 Q. Can you tell the jury what is the Agatha Foundation?

13 A. It's a nonprofit organization.

14 Q. And do you know what the Agatha Foundation does?

15 A. No, I don't.

16 Q. Do you know who ran the Agatha Foundation?

17 A. Yes.

18 Q. Who was that?

19 A. Ms. Eugenie Bakari.

20 Q. I have put on the screen what's marked as Exhibit A1.
21 Do you recognize what's shown in this photo?

22 A. Yes, I do.

23 Q. What is it?

24 A. That's the entrance of Holy Health Care.

25 Q. And at the entrance, was there a signage both for Holy

1 Health as well as the Agatha Foundation?

2 A. Yes.

3 Q. Were there other signs for the Agatha Foundation within
4 the office?

5 A. Yes.

6 Q. By 2021, were you personally telling consumers that the
7 Agatha Foundation was providing the cash that you were
8 handing out?

9 A. Yes.

10 Q. Did you ever hear Mr. Mbom discuss with others why the
11 Agatha Foundation should be paying the cash?

12 A. Can you rephrase your question?

13 Q. Yeah.

14 Did you ever overhear a conversation where Mr. Mbom was
15 talking about the Agatha Foundation providing the cash for
16 consumers?

17 A. Yes.

18 Q. Who was that conversation with?

19 A. It was with Ms. Eugenie Bakari and Mr. Julius Bakari.

20 Q. And what did you hear Mr. Mbom say?

21 A. He was saying that we should use Agatha Foundation as
22 a -- to pay consumers, like Agatha Foundation is the one who
23 pay actually consumers. We should put Holy Health Care aside
24 of this.

25 Q. And during that conversation, did he say why he wanted

1 to put Holy Health Care aside?

2 A. No.

3 Q. Do you recognize what has been marked as K10?

4 A. Yes.

5 Q. Can you describe what this is?

6 A. That's the spreadsheet of Agatha Foundation.

7 Q. And do you use this sheet to determine who to pay?

8 A. Yes.

9 Q. After you started using these sheets to track payments,
10 did anything change about how you got the money to pay
11 consumers?

12 A. No, no.

13 Q. Who gave you the money?

14 A. Ms. Eugenie Bakari or Mr. Julius Bakari.

15 Q. I'm going to show you what's been marked as F83.

16 MR. SARMA: Give me one second, Your Honor.

17 BY MR. SARMA:

18 Q. This is at Page 12. Do you recognize this check?

19 A. Yes, I do.

20 Q. And who is the recipient of the check?

21 A. It's me.

22 Q. And who is paying it?

23 A. Mr. Julius.

24 Q. Is that the CEO of the company?

25 A. Yes.

1 Q. And do you see this memo line?

2 A. Yes.

3 Q. What did you understand this memo line to mean?

4 A. He's saying consumers and the date.

5 Q. And what does "consumer" mean in this context?

6 A. Consumer is patients, so meaning that is -- I'm going to
7 use -- like this check was made to be used on that particular
8 day.

9 Q. And so did you get to keep any of the money that
10 Mr. Bakari was giving you with this check?

11 A. No.

12 Q. What were you going to do with the money?

13 A. I would use the money to pay consumers.

14 Q. And this is the back of that check?

15 A. Yes.

16 Q. And where did you go to deposit this check?

17 A. New Hampshire, Bank of America on New Hampshire Avenue.

18 Q. Do you recall what state that was in?

19 A. Maryland.

20 Q. Do you recall -- or do you recognize what's been marked
21 as J1?

22 A. Yes.

23 Q. What is this?

24 A. That's my bank statement.

25 Q. Looking at Page 3, do you see a transfer here from the

1 Holy Health bank account?

2 A. Yes, I do.

3 Q. What amount was that for?

4 A. \$300.

5 Q. Do you know what that transfer was for?

6 A. It was to pay consumers.

7 Q. Did you consider this payment to be part of your salary?

8 A. No.

9 Q. Did you keep any of this money for yourself?

10 A. No.

11 Q. Scrolling down to Page 4. On that same day, did you
12 make a withdrawal from the Bank of America?

13 A. Yes, I did.

14 Q. And for what amount?

15 A. \$300.

16 Q. And what Bank of America did you withdraw the money
17 from?

18 A. The same one; New Hampshire Avenue at Maryland.

19 Q. And what did you use this money for?

20 A. To pay consumers.

21 Q. Turning to J2, is this another one of your bank
22 statements?

23 A. Yes.

24 Q. And going here to Page 3, on October 5, did you receive
25 a Zelle transfer?

1 A. Yes, I did.

2 Q. And do you see the name Mboutchock Kabiwa?

3 A. Yes.

4 Q. Did I pronounce that correctly?

5 A. Yes.

6 Q. Okay. Did that person go by another name?

7 A. Yes.

8 Q. Who?

9 A. Eugenie Kabiwa.

10 Q. Is that the COO of the company?

11 A. Yes.

12 Q. And what was the amount of the transfer?

13 A. \$300.

14 Q. And why was she transferring you money?

15 A. To withdraw it to pay consumers.

16 Q. Scrolling down here to the next page. On the same day,
17 did you make two withdrawals that totaled \$300?

18 A. Yes, I did.

19 Q. Why did you do it in two separate withdrawals?

20 A. It was for me to have small bills.

21 Q. And why did you need small bills?

22 A. So that I would pay consumers with small bills.

23 Q. Did you keep any of this money for yourself?

24 A. No.

25 Q. Scrolling back up. On October 9, did you receive

1 another Zelle transfer payment from Ms. Mboutchok Kabiwa?

2 A. Yes, I did.

3 Q. What was the amount?

4 A. \$150.

5 Q. What did you understand she was sending you the transfer
6 for?

7 A. To pay consumers, as well.

8 Q. And then did you go to the Bank of America of
9 Hyattsville to withdraw the money?

10 A. Yes, I did.

11 Q. Did you use that money to pay consumers?

12 A. Yes, I did.

13 Q. Is this another one of your bank statements?

14 A. Yes, it is.

15 Q. On November 23, 2020, did Mr. Bakari send you \$300?

16 A. Yes, he did.

17 Q. Was that by a Zelle transfer?

18 A. Yes.

19 Q. And why was he sending you that money?

20 A. To pay consumers.

21 Q. And then did you go, on that same day, make cash
22 withdrawals from the Bank of America in Hyattsville?

23 A. Yes, I did.

24 Q. Was it for \$300 in total?

25 A. Yes.

1 Q. And why did you do it here on two separate withdrawals?

2 A. To have small bills so that I can pay consumers.

3 Q. Is this another one of your bank accounts or bank
4 statements?

5 A. Yes, it is.

6 Q. And on February 19, 2021, did Ms. Mboutchock Kabiwa
7 transfer you \$400?

8 A. Yes.

9 Q. And why was she transferring you \$400?

10 A. It was to pay consumers.

11 Q. And then did you withdraw that \$400 from the Bank of
12 America in Hyattsville?

13 A. Yes, I did.

14 Q. And did you keep any of that money for yourself?

15 A. No, I didn't.

16 Q. At some point, did you perform research on whether the
17 payments you were making to consumers was legal?

18 A. Yes, I did.

19 Q. And when did you do that research, approximately?

20 A. That was before the FBI came to the office.

21 Q. Was it months before, years before, days before?

22 A. No, that was years ago. Years before.

23 Q. And why did you do that research?

24 A. Because I feel like it was not right because I just put
25 myself, like why, when I'm going to see my doctor, I don't

1 receive any of those payments, so meaning maybe that's
2 something that is not right.

3 Q. And what did you conclude based on your research?

4 A. My conclusion was that it is fraud, like it's not okay.

5 Q. Did you ever tell Mr. Mbom that you thought these
6 payments were fraud?

7 A. Yes, I did.

8 Q. And in relation to the search by the FBI, when did you
9 tell him that?

10 A. That was probably one or two years ago.

11 Q. When you say "one or two years ago," is that one or two
12 years prior to the search?

13 A. Yes.

14 Q. Where did you tell him that?

15 A. In his office.

16 Q. Was anyone else there?

17 A. No.

18 Q. What did you say to him?

19 A. I told him that we have to find a way to stop it.

20 Q. And did Mr. Mbom reply to you?

21 A. He say that he need to talk with Mr. Bakari and
22 Ms. Eugenie Bakari.

23 Q. After that conversation, did you stop making payments to
24 consumers?

25 A. No.

1 Q. Once you had decided that you thought these were, these
2 payments were fraud, why did you continue to make them to
3 consumers?

4 A. Because I was receiving instruction from Mr. (sic)
5 Eugenie Bakari.

6 Q. But you believed you were breaking the law at that
7 point?

8 A. Yes.

9 Q. And so why did you continue to break the law?

10 A. Because I was receiving instruction; and at that period
11 of time, I didn't have another option to look for another
12 job.

13 Q. Just at a very high level, why did you think you didn't
14 have any other options?

15 A. Because at that period of time, my documentation was not
16 out yet.

17 Q. And when you refer to "documentation," are you referring
18 to your immigration status?

19 A. Yes.

20 Q. Do you know if consumers ever used the cash that you
21 paid them to buy drugs?

22 A. Yes.

23 Q. Did you tell Mr. Mbom, once you learned, that consumers
24 were buying drugs using the cash?

25 A. Yes.

1 Q. When did you tell Mr. Mbom that in relation to the FBI
2 search?

3 A. Probably one year, one year ago.

4 Q. And where did you have that conversation?

5 A. In his office.

6 Q. Was anyone else there?

7 A. No.

8 Q. And what did you say to Mr. Mbom?

9 A. I told him that I receive a report that consumers are
10 using that money to pay drugs.

11 Q. And what did Mr. Mbom say?

12 A. Mr. Mbom say that he's going to report to discuss with
13 Mr. Bakari and Ms. Eugenie Bakari.

14 Q. And after that conversation, did you continue to make
15 cash payments to consumers?

16 A. Yes.

17 Q. I am now going to show you what been marked as A1. Can
18 you remind the jurors what is this?

19 A. That's the entrance of Holy Health Care at North Capitol
20 Street.

21 Q. And here is A2. Do you -- can you tell the jurors what
22 this is?

23 A. This is the front desk.

24 Q. And when you say you worked at the front desk, is this
25 where you were sitting?

1 A. Yes.

2 Q. And what is at the other side of the room from the front
3 desk?

4 A. The offices.

5 MR. SARMA: Give me one second.

6 BY MR. SARMA:

7 Q. I'm going to now show you A4. This is a touchscreen.
8 Can you circle where the front desk is?

9 A. (Witness complies.)

10 Q. Thank you. And then do you see some chairs?

11 A. Yes.

12 Q. What are those chairs?

13 A. That was the waiting room where consumers are going to
14 sit and wait to be called.

15 Q. And would they be called by CSWs?

16 A. Yes.

17 Q. And just kind of pointing on the screen, once they were
18 called, where would the consumers go with the CSW? What
19 direction?

20 A. They were going this way.

21 Q. And so based on where you were sitting at the front
22 desk, did you see consumers leaving the waiting room and
23 going with their CSWs?

24 A. Yes.

25 Q. And then could you, then, see those same consumers come

1 back to the waiting room?

2 A. Yes.

3 Q. As a general matter, how long were consumers seeing
4 their CSWs?

5 A. 10, 15, 20 minutes.

6 Q. Without going into any specifics about what you were
7 told, did you ever hear complaints from consumers about CSWs
8 for short periods of time?

9 A. Yes.

10 Q. And did you ever tell those complaints to Mr. Mbom?

11 A. Yes, I did.

12 Q. And what did you say to him?

13 A. I told him that consumers are complaining that they are
14 not fully receiving the help from CSW.

15 Q. And what did Mr. Mbom say?

16 A. He say that he's going to address it to the respective
17 CSW.

18 Q. And do you know if any CSWs were fired based on the
19 complaints you reported?

20 A. No.

21 Q. Do you know an individual named Aja Oro?

22 A. Yes.

23 Q. Can you tell the jury who is Aja Oro?

24 A. He was a therapist at Holy Health Care.

25 Q. What location did Mr. Oro work?

1 A. North Capitol Street NW.

2 Q. And as a therapist, did he see patients?

3 A. Yes.

4 Q. Did you observe consumers going from the waiting room to
5 see Mr. Oro?

6 A. Yes.

7 Q. And did you see them then return back to the waiting
8 room after seeing Mr. Oro?

9 A. Yes.

10 Q. And based on your observations, how long, in general,
11 did Mr. Oro see his patients?

12 A. Five minutes.

13 Q. Did you ever talk to Mr. Mbom about what you observed
14 about Mr. Oro?

15 A. Yes, I did.

16 Q. And when was that?

17 A. I don't quite remember the time, the period of that
18 time, but it was before the FBI came.

19 Q. And where did you and Mr. Mbom have this conversation?

20 A. In his office or in the conference room.

21 Q. And what did you tell him?

22 A. I told him that consumers are complaining that they are
23 not receiving the full services like the therapies, therapy
24 they are not receiving.

25 Q. And what did Mr. Mbom say?

DIRECT OF JEANNE MBOE-FOE BY MR. SARMA

419

1 A. Mr. Mbom say that he's going to address it and talk with
2 Mr. Mbom, Julius Bakari, and Ms. Eugenie Bakari.

3 MR. SARMA: At this point, Your Honor, I'd like to
4 hand out a transcript to the jurors.

5 THE COURT: All right.

6 MR. SARMA: May I approach the jurors?

7 THE COURT: Sure. Could we get on this for a
8 second?

9 Turn on the husher, please.

10 Okay.

11 (A bench conference was held on the record but out
12 of the hearing of the jury as detailed below beginning at
13 9:52 a.m.)

14 MR. ROBBINS: Sorry, Your Honor. But the
15 transcript wasn't identified. I don't know if this is
16 something --

17 THE COURT: I was about to ask: Do you have for
18 Mr. Robbins and for me a transcript number? I'd like an
19 exhibit number.

20 MR. SARMA: Yeah, I can give it to you right now,
21 Your Honor. I apologize.

22 THE COURT: And do you have a copy for Mr. Robbins
23 and for me, as well?

24 MR. SARMA: It's the one we handed out yesterday.
25 It's T3c.

DIRECT OF JEANNE MBOE-FOE BY MR. SARMA

420

1 MS. COLLINS: T3c.

2 THE COURT: Hold on. So we should both have it?

3 MR. SARMA: Yes, Your Honor. I can provide it
4 again, though.

5 MR. ROBBINS: And then the other thing, Your Honor,
6 is it's been a day or two since we reminded the jury.

7 THE COURT: Yes, I can do that.

8 MR. ROBBINS: Thank you.

9 THE COURT: T3c, you said. Is that the only one
10 you've handed out?

11 MR. SARMA: Yes, Ma'am.

12 THE COURT: Okay. Very good.

13 MR. ROBBINS: I could use another.

14 MR. SARMA: No problem.

15 (The bench conference concluded at 9:53 a.m., and
16 proceedings resumed within the hearing of the jury.)

17 THE COURT: Okay. All right. We have located the
18 transcripts.

19 So let me just remind you, Ladies and Gentlemen,
20 that these transcripts are not evidence. The recording is
21 the evidence. This is merely the Government giving this to
22 you to help guide you. So be sure if you're going to make
23 any notes, make them in your notebook; okay?

24 All right. Very good.

25 Mr. Sarma?

DIRECT OF JEANNE MBOE-FOE BY MR. SARMA

421

1 MR. SARMA: Yeah, so I just handed out -- but I
2 apologize. I should have put it on the record.

3 Before this, I handed out transcript T3c, which
4 goes along with an audio clip, Exhibit 11-3c, which is
5 already in evidence -- L3c. It's L3c is the recording.

6 BY MR. SARMA:

7 Q. And before we get there, Ms. Foe, prior to testifying
8 here today, did you listen to a recording of a Holy Health
9 meeting that took place in December of 2020?

10 A. Yes.

11 Q. And did you personally attend that meeting?

12 A. Yes.

13 Q. I'm going to begin playing on 2 minutes, 8 seconds. On
14 the transcript, that should be about a third of the way down
15 the final page.

16 (Audio played.)

17 BY MR. SARMA:

18 Q. Did you hear the voice of that man?

19 A. Yes.

20 Q. Whose voice is that?

21 A. Mr. Lambert Mbom.

22 (Audio played.)

23 BY MR. SARMA:

24 Q. Did you hear Mr. Mbom say, "Mr. O?"

25 A. Yes.

1 Q. Do you know who Mr. Mbom was referring to?

2 A. Yes.

3 Q. Did you hear Mr. Mbom referring to Mr. O handing out a
4 card?

5 A. Yes.

6 Q. Do you know what he was referring to by a card?

7 A. Yes.

8 Q. Can you explain to the jury what the card is?

9 A. It was the sticky note. After consumers seeing
10 therapist or CSW or doctors, any staff, they are going to
11 handle (sic) them sticker note.

12 Q. And what could they use the sticker note for?

13 A. To receive their payment.

14 Q. Had you spoken to Mr. Mbom about Mr. O before or after
15 this particular recording?

16 A. Before.

17 Q. And do you know Mr. O's full name?

18 A. Yes.

19 Q. Can you tell the jury what that full name is?

20 A. Oro, Aja.

21 Q. At some point, did you help consumers who came to Holy
22 Health get free cell phones?

23 A. Yes, I did.

24 Q. Who taught you how to obtain those free cell phones?

25 A. It was the order front desk at the SE location.

1 Q. Do you recall the name of that person?

2 A. Yes. Victoria.

3 Q. Do you remember her last name?

4 A. No, I don't.

5 Q. Other than you and Ms. Victoria, do you know if there
6 were other Holy Health employees getting free cell phones for
7 consumers?

8 A. No.

9 Q. Can you describe the process for obtaining a free cell
10 phone for a consumer?

11 A. So, a consumer come to me and we sit down and I have to
12 explain him the process. He need to bring his ID, food stamp
13 card, Medicaid ID, as well. And we go on the online, the
14 website is Assurance Wireless. We go in there and then we
15 fill up some paperwork.

16 And if he's approved, he's going to -- I mean, the
17 system of a transfer screen is going to tell us if the
18 consumer has been approved or not.

19 Q. And approximately how long did it take to do all those
20 steps?

21 A. 15 -- less than 20, about 15 minutes.

22 Q. Are you familiar with the Credible system?

23 A. Yes.

24 Q. Is that sometimes also known as the ICMS system?

25 A. Yes.

1 Q. Did you enter notes into ICMS when you applied for these
2 phones?

3 A. Yes.

4 Q. Whose name did you use to enter the notes in the ICMS
5 system?

6 A. Eugenie Bakari.

7 Q. And why did you use Eugenie Bakari's name?

8 A. Because Mr. Mbom told me I cannot, technically I cannot,
9 he cannot create a log-in under my name because I do not have
10 a Social Security Number. So I have to use Ms. Eugenie
11 Bakari log in.

12 Q. Was there a password associated with Ms. Bakari's ICMS
13 account?

14 A. Can you rephrase your question.

15 Q. To log into Ms. Bakari's ICMS account, did you need a
16 password?

17 A. Yes.

18 Q. Who gave you that password?

19 A. Mr. Lambert Mbom.

20 Q. I am now showing you what has been marked as I220. Do
21 you recognize this document?

22 A. Yes.

23 Q. I'm going to start by scrolling down to Page 3. Do you
24 see where it says, "Mr. Ray expressed relief after knowing
25 that he will soon be the owner of a phone"?

1 A. Yes.

2 Q. Who helped Mr. Ray get this phone?

3 A. Me.

4 Q. According to this note, what staff member helped Mr. Ray
5 get the phone?

6 A. Eugenie Bakari.

7 Q. And who was the individual who approved this note?

8 A. Mr. Lambert Mbom.

9 Q. Are you saying that because of the user name that I've
10 just highlighted?

11 A. Yes.

12 Q. Since leaving Holy Health, have you seen Mr. Mbom?

13 A. Yes.

14 Q. How often have you seen him?

15 A. We used to see him once, once a week, once or two times
16 a week.

17 Q. Do you know the last time you saw him?

18 A. No, I don't remember.

19 Q. Do you know if you saw him in 2023?

20 A. Yes.

21 Q. Was it the winter? Was it the spring? Was it the
22 summer?

23 A. I think it was back in January.

24 Q. Did you say January?

25 A. Yes.

1 Q. And since leaving Holy Health, have you communicated
2 with Mr. Mbom via WhatsApp?

3 A. Yes.

4 Q. How often would you exchange WhatsApp communications?

5 A. It was every day. But and then the communication has
6 been cut off.

7 Q. And when was the communications cut off?

8 A. I don't remember.

9 Q. Do you know if it was this year or 2022 or 2021?

10 A. 2023.

11 MR. SARMA: Just a minute, Your Honor.

12 (Pause.)

13 Thank you. We pass the witness.

14 THE COURT: Okay. Mr. Robbins?

15 MR. ROBBINS: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ROBBINS:

18 Q. Good morning, Ms. Foe.

19 A. Good morning.

20 Q. My name is Gar Robbins. I represent Lambert Mbom. We
21 haven't talked before, you and I? You and I have never
22 talked before?

23 A. No.

24 Q. Okay. I'm going to ask a few questions. Mostly based
25 on what you testified to already.

1 A. Okay.

2 Q. Am I loud enough? Can you hear me?

3 A. Yes.

4 Q. Okay. You started working at Holy Health, you said,
5 sometime in 2013, I believe?

6 A. Yes. 2013, 2014.

7 Q. Somewhere in there.

8 And so you worked there for a pretty good long time
9 before Lambert ever showed up on the scene.

10 A. Yes.

11 Q. In the time that you were working there, the patterns of
12 Holy Health were fairly well-established?

13 A. Can you rephrase your question?

14 Q. Sure.

15 Were you at the front desk the whole time?

16 A. No.

17 Q. Where did you start?

18 A. I was sitting in the back.

19 Q. What did you do in the back?

20 A. Just typing some documents.

21 Q. When did you move from working in the back typing
22 documents to working up front?

23 A. I don't quite remember.

24 Q. But you were working up front before Lambert showed up
25 on scene?

1 A. Yes.

2 Q. You were already the front desk person?

3 A. Yes.

4 Q. In fact, when Lambert first showed up on scene for
5 some -- little while after he was there, you had -- you
6 didn't like the way he was trying to manage Holy Health?

7 A. Not that I didn't like the way he was managing. It was
8 new. Like, it was new. Everybody was new. And you have to
9 be -- like, when somebody comes to your agency where you have
10 been working, you have to be conscious that -- to know more
11 the person before putting yourself, you know, sort of opening
12 up to that person.

13 Q. And it seemed to you that he might have a different
14 approach, might be more demanding in some ways than his
15 predecessor?

16 A. Yes.

17 Q. At the time that Lambert Mbom came, the Bakaris already
18 had the system of providing payments to consumers in place.

19 A. Yes.

20 Q. And so those incentives had been going on for some
21 period of time.

22 A. Oh, yes, uh-huh.

23 Q. You talked about overhearing a conversation between
24 Lambert and both the Bakaris, Eugenie and Julius, about those
25 payments being made, stipends or any other label. You heard

1 a discussion about that; correct?

2 A. Yes.

3 Q. And that discussion came after you had told Lambert that
4 you didn't like those payments?

5 A. Can you rephrase your question?

6 Q. You told us that you had had a point where you got
7 curious about the payments and wondered about whether they
8 were appropriate. And you did research?

9 A. Yes, I did research.

10 Q. And based on your conclusions from the research, you
11 thought that those payments were probably, at least,
12 inappropriate and maybe illegal?

13 A. Yes.

14 Q. And you told Lambert that?

15 A. Yes, I did told him that.

16 Q. And you overheard a conversation between Lambert and the
17 Bakarlis about those payments?

18 A. Yes.

19 Q. Did you hear that entire conversation?

20 A. I can say not the entire conversation.

21 Q. Did you hear Lambert telling the Bakarlis that there was
22 a problem with those payments?

23 A. No.

24 Q. Did you hear the Bakarlis tell Lambert that those
25 payments were okay because they were coming from Agatha

1 Foundation?

2 A. No. The Bakaris did not tell Lambert. It's Lambert who
3 told them that the stipends supposed -- it's good that Agatha
4 Foundation take care of that, that Holy Health Care needs to
5 be out of the payment.

6 Q. Okay. So he said it's good that it's Agatha that's
7 doing it?

8 A. That's what he said.

9 Q. All right. So then at that point, was that the time
10 when he told them that Agatha was the one that was really
11 paying it, that the sign-in sheet should show that?

12 A. Can you rephrase your question?

13 Q. Yes, I'm sorry.

14 At some point Lambert told the Bakaris, Julius and
15 Eugenie, that if the money for the stipends from coming from
16 Agatha, that the sign-in sheet that showed the stipends were
17 going to consumers should reflect that so that you could tell
18 where it's coming from. Were you there for that
19 conversation?

20 A. Yes. That's what he said.

21 Q. That's the conversation, okay. I thought that was the
22 one.

23 Was there sometimes a problem cashing your paychecks
24 from Holy Health?

25 A. Yes.

1 Q. Is that -- did you have to make sure you got to the bank
2 quickly after receiving the check?

3 A. Yes.

4 Q. And so most of your paychecks would either be cashed or
5 maybe deposited into your account, but it would be done
6 pretty much on the same day that you got it?

7 A. Yes.

8 Q. And if you didn't do that, you might have to worry about
9 whether there was going to be any money or it would be a
10 bounced check?

11 A. Yes.

12 Q. When you went to Lambert with things that needed to be
13 changed or improved, was his answer often that he needed to
14 talk to Julius or Eugenie before anything would happen?

15 A. Yes.

16 Q. Did you sometimes get the sense that Lambert was very
17 frustrated with the way things worked at Holy Health?

18 A. Yes.

19 Q. Could you tell the source of that frustration?

20 A. Mostly the frustration was when the staff, like, the
21 staff never received their payment.

22 Q. Did you hear him in discussions with the Bakaris? Or
23 did people go to Lambert and then he had to go see the
24 Bakaris when they didn't get paid?

25 A. No.

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

432

1 MR. ROBBINS: I have no further questions, Your
2 Honor.

3 THE COURT: Okay.

4 MR. ROBBINS: Thank you.

5 THE WITNESS: You're welcome.

6 THE COURT: Mr. Sarma, any Redirect?

7 MR. SARMA: Very short.

8 THE COURT: Okay.

9 REDIRECT EXAMINATION

10 BY MR. SARMA:

11 Q. I believe it's something you testified that Mr. Bakari
12 was the CEO of the company; is that correct?

13 A. Yes.

14 Q. And what was Ms. Eugenie's role?

15 A. The COO.

16 Q. And so why did you go to Mr. Mbom when you discovered
17 that these payments might be illegal?

18 A. Because he was my supervisor.

19 Q. And why did you go to Mr. Mbom when you received
20 complaints about Aja Oro?

21 A. Because he was my supervisor.

22 Q. And why did you go talk to Mr. Mbom about the consumers
23 using the cash payments to buy drugs?

24 A. Because he was my supervisor.

25 Q. And what changes, if any, did you see happening at Holy

1 Health after you went and had those conversations?

2 A. Nothing has changed.

3 THE COURT: Okay. Ms. Foe, that concludes your
4 testimony. You may step down. You're free to leave.

5 THE WITNESS: Thank you so much.

6 THE COURT: Have a great day.

7 THE WITNESS: You, too.

8 THE COURT: All right, Ladies and Gentlemen, let's
9 take our morning break. So we're on break for 20.

10 THE CLERK: All rise for the jury.

11 (The jury left the courtroom at 10:16 a.m., and
12 proceedings were had out of the presence of the jury
13 as follows:)

14 THE COURT: All right, everyone. Let me just check
15 in with you all about scheduling. The Government has to
16 recall Agent Moran. Is there anyone else you're calling?

17 MR. SARMA: Not in the case-in-chief, Your Honor.

18 THE COURT: Okay. Estimated time of the remaining?

19 MS. McKOY: I'd say for the Direct, Your Honor,
20 maybe two hours.

21 THE COURT: Okay. All right. And then you'll rest
22 in front of the jury.

23 Okay. And then, Mr. Robbins, I would expect, then,
24 that you'll voir dire Mr. Mbom today so we know whether he is
25 testifying or not; okay?

1 So, you make your Rule 29 motion, we'll get that
2 done, but that needs to happen today. You've known now what
3 the Government's case is for quite sometime. I don't want
4 this to drag into Monday and we still don't know what we're
5 doing; okay? So, take your time to talk with Mr. Mbom.

6 MR. ROBBINS: In the next 15 minutes?

7 THE COURT: No. And then you can have, if you need
8 more time, you can have more time. But Mr. Mbom has sat
9 through the entire trial. You've represented him throughout
10 this case. You're a good lawyer. I know you've shared with
11 Mr. Mbom all of the discovery in this regard. So, he needs
12 to make that decision. And we need to know it before we go
13 into Monday so that I can tell the jury when to show up.

14 MR. ROBBINS: I understand that, Your Honor. I was
15 perhaps a little too flippant in the way I asked the
16 question. All I'm asking is that I may need more than a few
17 minutes to do the prep before the voir dire again just
18 because it has been -- it's an issue that's very close to his
19 heart.

20 THE COURT: Sure.

21 MR. ROBBINS: And we've had a lot of discussions.
22 But everybody who's been in the courtroom knows that reality
23 is perceived differently once someone has sat through
24 evidence. And because it is such a critical decision to
25 make, I may ask the Court to give us another little break at

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

435

1 the point just before we do the voir dire.

2 THE COURT: Okay. Well, that's fine.

3 MR. ROBBINS: It shouldn't hold up the jury in any
4 fashion. But I may need more time.

5 THE COURT: Here's my only question with the jury.
6 I understand you may need more time. But I need to tell them
7 when -- well, let's do it this way. No matter what, they're
8 coming back Monday morning. And they're coming back regular
9 time. So whether you all, we charge and close -- meaning
10 8:45. Whether we charge and close or Mr. Mbom testifies, I'm
11 going to tell them to come back at that time.

12 I guess, then, we don't need the jury for that.
13 But I think we do need to know so that --

14 MR. ROBBINS: Everybody's properly prepared.

15 THE COURT: Correct. And we know whether we're
16 closing or not on Monday.

17 MR. ROBBINS: I understand.

18 THE COURT: Okay.

19 MR. ROBBINS: And on that front, the parties did
20 receive your instructions yesterday. We have exchanged
21 emails. The last thing that I did before I got kicked off of
22 the court's Internet access this morning was I sent my reply
23 to the Government's reply. So I can't get back to that
24 particular email at this point. But if there's -- they may
25 want to add something else to it. But then I think we can

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

436

1 probably share the dialogue that we had back with chambers.

2 MS. COLLINS: That's fine. Actually because of
3 when it was sent, I haven't seen his reply to my reply.

4 THE COURT: Is this the substantive jury
5 instruction question?

6 MS. COLLINS: Yes.

7 THE COURT: All right. Well, the jury instructions
8 were kind of a bear, as I mentioned to you, which is why we
9 had to redo them completely. So if there's -- I have added,
10 because you have introduced demonstratives, so I've added
11 that pattern instruction back in.

12 We're doing this in open court on the record the
13 charge conference. I don't do it back in chambers. So y'all
14 may want to share with me before we talk after the jury goes
15 home what it is.

16 MR. ROBBINS: That's kind of where I was headed,
17 Your Honor. Is that we can give you a little bit of
18 preview --

19 THE COURT: Sure.

20 MR. ROBBINS: -- of where we disagree. I don't
21 think it will take the Court a long time to go through it.

22 MS. COLLINS: I apologize. I really haven't seen
23 his reply to my reply. I'm hoping that some of the issues I
24 have raised we can reach a resolution.

25 THE COURT: Okay. Why don't you all talk about it

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

437

1 and then we'll figure out how much of it you need me for.
2 Very good.

3 MR. SARMA: May I make one other scheduling
4 comment, Your Honor?

5 THE COURT: Sure.

6 MR. SARMA: Which I think would be, the Court is
7 sensitive to this. If Mr. Mbom does testify and we start
8 8:45 on that on Monday morning, we would ask: There are
9 pending -- there is at least one pending motion that would
10 need to be resolved.

11 THE COURT: We're going to have to address it. It
12 seems to me that all the motions are about Mr. Mbom's prior
13 conversations with the Government; right?

14 MR. SARMA: One with pretrial services and one with
15 the Government. There are two separate motions.

16 THE COURT: Okay. Pretrial services, you mean
17 statements made? Because I haven't looked at them. I saw
18 that this was in the event. It was a conditional. And I
19 wasn't going to deal with it unless we had to.

20 MR. SARMA: Sure.

21 THE COURT: There were statements made to pretrial
22 services that you wish to use?

23 MR. SARMA: To impeach on.

24 THE COURT: I'll tell you my initial reaction is no
25 to that because pretrial is -- we don't use it as a tool for

1 litigation generally. If there are cases that you cited in
2 the motion, I'm happy to look at it. I see the proffer is
3 different as long as you're expecting that Mr. Mbom would
4 testify differently than what he said to you all and you
5 confront him on that and then you'd call the agent if you
6 needed to if there's some dispute about that, maybe, we'll
7 see.

8 But I guess what -- do you have Fourth Circuit case
9 law that says you can use statements made in pretrial?

10 MR. SARMA: So, we say there is not a Fourth
11 Circuit case. There are unanimously -- for all other
12 circuits to address the issue it is you can use it for the
13 purposes of impeachment. I can't use it as substantive
14 evidence. But statements he made to pretrial that were false
15 statements.

16 THE COURT: I tell you that's a really perilous
17 area because pretrial, were they uncounseled? So post-arrest
18 uncounseled?

19 MR. SARMA: These were a couple -- these were a
20 couple weeks ago.

21 MR. ROBBINS: I was not there.

22 THE COURT: Okay. And they're on the subject
23 matter of squarely relevant to the charges? What is pretrial
24 talking to the defendant about that's squarely relevant to
25 the charges?

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

439

1 MR. SARMA: It would be his credibility. This is
2 my proffer on it. He was --

3 THE COURT: Okay.

4 MR. SARMA: We alerted pretrial that we believed he
5 was having contact with individuals, including Ms. Foe.
6 Pretrial then asked him about that and he said he had had
7 contact with certain witnesses but that he did not have
8 contact with both Ms. Foe or Mr. Forka who have now both
9 testified in court that they did have contact with him.

10 THE COURT: Ms. Foe just said she hadn't had
11 contact with Mr. Mbom since January of this year?

12 MR. SARMA: Right. But there was a pretrial
13 condition set back in 2021 that said he was not to have
14 contact with any Holy Health employees.

15 THE COURT: So the marginal relevance is he
16 violated a pretrial rule. There's nothing to suggest --
17 nothing has come in that I heard that Mr. Mbom -- any witness
18 has testified he's influenced them in any way.

19 MR. SARMA: That's not what the Government -- the
20 Government's position is that he violated his pretrial
21 condition, that he then denied it to pretrial. That would be
22 the basis for impeaching his credibility.

23 THE COURT: I think it's a very long road to a
24 small house that invites error. And so I'm not inclined to
25 go there.

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

440

1 But, you know, that's where I am right now. If
2 that's the full extent of the impeachment, I think it's --
3 it's -- and if I had to call it now, I would deny it.

4 MR. SARMA: Okay.

5 THE COURT: With regard to the proffer statements,
6 once we know more about -- I mean, I think, Mr. Robbins --

7 MR. ROBBINS: There are an abundance of proffer
8 statements, Your Honor. And I think the Government's going
9 to be on much stronger ground for using this. There's not
10 much I am going to be able to say about it.

11 THE COURT: Exactly. So that you, Mr. Mbom, know
12 that. And I'm sure, Mr. Robbins, you will talk to him about
13 that.

14 Okay. Very good. Take our break.

15 THE CLERK: All rise. The Court stands in recess.

16 (Recess held from 10:25 to 10:42 a.m.)

17 THE COURT: All right. Ready for the jury?

18 MS. COLLINS: Your Honor, I just one thing close
19 the loop on the jury instructions. I did see Mr. Robbins'
20 responses and speak with him. We are in agreement except for
21 two small issues.

22 THE COURT: Okay.

23 MS. COLLINS: What I will plan to do is make those
24 changes and email that back to the Court and highlight the
25 two issues to be resolved.

REDIRECT OF JEANNE MBOE-FOE BY MR. SARMA

441

1 THE COURT: So you'll email me an updated Word
2 version?

3 MS. COLLINS: Yes, Your Honor. And I'll put in
4 track changes so you can see what is going on.

5 THE COURT: Perfect. Sounds good. Thanks.

6 THE CLERK: Are you ready for the jury now?

7 THE COURT: I believe we are, yeah.

8 (The jury came back into the courtroom at 10:44 a.m.,
9 and the following proceedings were had in the
10 presence of the jury.)

11 THE COURT: All right, everyone. You can have a
12 seat.

13 Government, you can call your next witness.

14 MS. McKOY: The Government calls, again, Special
15 Agent Jim Moran.

16 THE CLERK: Your Honor, does the witness need to be
17 re-sworn?

18 THE COURT: Yes, please, since it's been some time.

19 THE CLERK: Please raise your right hand.

20 JAMES MORAN

21 having been called as a witness and having been duly sworn,
22 was examined and testified further as follows:

23 THE WITNESS: I do.

24 THE CLERK: If you could have a seat. Please
25 restate your name for the record.

FURTHER DIRECT OF JAMES MORAN BY MS. MCKOY

442

1 THE WITNESS: James Moran, M-O-R-A-N.

2 THE CLERK: Thank you.

3 FURTHER DIRECT EXAMINATION

4 BY MS. MCKOY:

5 Q. Welcome back.

6 A. Thank you.

7 Q. On Tuesday you discussed that the FBI raided Holy
8 Health's offices on April 2, 2021. After the raid, was Holy
9 Health still operating?

10 A. Yes.

11 Q. For how much longer after that point?

12 A. Approximately five months.

13 Q. What happened at that point?

14 A. In September of 2021, the company was shut down by D.C.
15 Department of Behavioral Health.

16 Q. Yesterday, did you hear Francis Senesie testify about
17 fake CSWs for whom he was entering notes on ICMS?

18 A. Yes, I did.

19 Q. And as a part of your investigation, did you pull
20 reports of ICMS' accounts for those individuals?

21 A. Yes.

22 Q. Were those reports in the form of Excel spreadsheets?

23 A. Yes, that's what the export came out as.

24 Q. Looking at the box next to you, I'm directing your
25 attention to what's been marked and already admitted as

1 Government's Exhibits I272 through I277. Is that a CD?

2 A. It is.

3 Q. Does that CD contain the spreadsheets you pulled from
4 ICMS for the individuals named Etongwe Nanjeh, Lancelot
5 Pajouo, Melanie Teche, Romeo Ngassa, Shadrack Nakoba, and
6 Zilefac Foretia?

7 A. Yes.

8 Q. Were PDF versions of those spreadsheets generated?

9 A. They were.

10 Q. Are you familiar with the first name I listed? Etongwe
11 Nanjeh?

12 A. Only the name.

13 Q. And did you review notes written by Mr. Senesie under
14 that name?

15 A. Yes.

16 Q. I'm showing you what's been marked as Government's
17 Exhibit I272. And looking at the staff name listed here, and
18 zooming in, what name is there?

19 A. Etongwe Nanjeh.

20 Q. At a high level, what does this spreadsheet show?

21 A. This is a spreadsheet showing basically listing the
22 services that were documented under the name Nanjeh, or
23 Etongwe Nanjeh in ICMS.

24 Q. And going to the last page of this spreadsheet, how many
25 notes were entered on ICMS under the name Etongwe Nanjeh?

1 A. 1,534.

2 Q. Going to Page 17, Row 897, do you see the name Arif
3 Ahmed?

4 A. I do.

5 Q. What does this row show for Mr. Ahmed?

6 A. This row shows that a community -- shows that a note was
7 entered for a community support service on June 9, 2021. It
8 was entered by Etongwe Nanjeh. And it appears that \$121.35
9 was billed for that note.

10 Q. And based on your review of Mr. Ahmed's recorded visits
11 at Holy Health, did he receive any services from the Holy
12 Health provider on that day, June 9, 2021?

13 A. No, he did not.

14 Q. Do you know if there were any other notes entered for
15 Mr. Ahmed under the name Etongwe Nanjeh?

16 A. Yes.

17 Q. I won't go through all of them with you, but just
18 quickly jumping to Page 26, and looking at Row 1407 here, is
19 Mr. Ahmed's name listed here as the consumer again?

20 A. Yes, it is.

21 Q. And what is the service date provided here?

22 A. August 24, 2021.

23 Q. So between -- sorry.

24 So did Mr. Ahmed receive any services from a Holy Health
25 provider that day?

1 A. No, he did not.

2 Q. So between June 9, 2021, which we just looked at, and
3 now, August 24, 2021, were there other notes entered
4 periodically for Mr. Ahmed under the name Etongwe Nanjeh?

5 A. Yes, there were.

6 Q. I'm now showing you what's been marked as Government's
7 Exhibit I273a. What's the staff name listed here?

8 A. Lancelot Pajouo.

9 Q. And so at a high level, what does this chart show?

10 A. Same as before. This is a spreadsheet pulled from
11 Credible or ICMS showing a report of notes for services
12 entered under the name Lancelot Pajouo.

13 Q. And going down to the last page, Page 12, how many notes
14 were entered on ICMS under the name Lancelot Pajouo?

15 A. 644.

16 Q. Now, going to Government's Exhibit I274a, what is the
17 staff name listed here?

18 A. Melanie Teche.

19 Q. And is this spreadsheet like the first two spreadsheets
20 that we just looked at?

21 A. Yes.

22 Q. Going to the last page here, Page 4, how many notes were
23 entered under ICMS under the name Melanie Teche?

24 A. 158.

25 Q. Going back to the first page and looking at Row 12,

1 what's the consumer name listed here?

2 A. Darlene Williams.

3 Q. And what is the service date provided here?

4 A. March 18, 2021.

5 Q. What does this row show for Ms. Williams on that date?

6 A. It shows that a community support note was entered under
7 the name of Melanie Teche for -- and it was billed to
8 Medicaid for \$121.35.

9 Q. And based on your review of Ms. Williams' recorded
10 visits at Holy Health, did Ms. Williams receive any services
11 from a Holy Health provider on that day?

12 A. No, she did not.

13 Q. And were there any other notes entered under the name
14 Melanie Teche for services allegedly given to Ms. Williams?

15 A. Yes, there were.

16 Q. Let's look at another, quickly. Going to Page 3, Row
17 113, do you see Ms. Williams' name listed here again?

18 A. Yes.

19 Q. And what is the date of service?

20 A. April 1, 2021.

21 Q. Did Ms. Williams receive any services from a Holy Health
22 provider that day?

23 A. No, she did not.

24 Q. And so between March 18, 2021, and April 1, 2021, were
25 there other ICMS notes entered for Ms. Williams under the

1 name Melanie Teche?

2 A. Yes.

3 Q. I'm showing you another spreadsheet that's marked as
4 Government Exhibit I275a. Is this spreadsheet similar to the
5 ones that we just reviewed?

6 A. Yes.

7 Q. What's the staff name listed here?

8 A. Romeo Ngassa.

9 Q. Jumping to the last page, Page 6, in total, how many
10 notes were entered on ICMS under the name Romeo Ngassa?

11 A. 289.

12 Q. Now, looking at Government Exhibit I276a, what's the
13 staff name provided here?

14 A. Shadrack Nakoba.

15 Q. Going to the last page, Page 5, in total, how many notes
16 were entered on ICMS under the name Shadrack Nakoba?

17 A. 223.

18 Q. Now, looking at Page 1, Row 133, who's the consumer name
19 listed here?

20 A. That is Arif Ahmed.

21 Q. And what is the service dated provided here?

22 A. March 13, 2021.

23 Q. And what does this row show for that service date?

24 A. It tells us that a community support note was entered
25 under the name of Shadrack Nakoba and -- for Arif Ahmed and

1 billed to the Medicaid for \$97.08.

2 Q. Now, looking at Row 202, Page 4, of the same
3 spreadsheet, do you see Mr. Ahmed's name here again?

4 A. Yes.

5 Q. And what's the service date?

6 A. April 6, 2021.

7 Q. Did Mr. Ahmed receive any services from the Holy Health
8 provider that day?

9 A. No, he did not.

10 Q. And for the entry that we just looked at, March 13,
11 2021, on the first page, did Mr. Ahmed receive any services
12 from the Holy Health provider that day?

13 A. No, he did not.

14 Q. Between March 13, 2021, and April 6, 2021, were ICMS
15 notes entered periodically for Mr. Ahmed under the name
16 Shadrack Nakoba?

17 A. Yes.

18 Q. Looking at the last spreadsheet here, what's the staff
19 name provided here?

20 A. Zilefac Foretia.

21 Q. And, again, going to the last page, how many names were
22 listed under the name Zilefac Foretia?

23 A. 118.

24 Q. Going back to Page 1 and looking at Row 26, is
25 Mr. Ahmed's name provided here again?

1 A. Once again, yes.

2 Q. And what does this row provide for Mr. Ahmed?

3 A. That's another community support note entered under
4 Zilefac Foretia's name billed for \$121.35.

5 Q. What day?

6 A. February 26, 2021.

7 Q. And based on your review of Mr. Ahmed's recorded visits
8 at Holy Health, did he receive any services from a Holy
9 Health provider that day?

10 A. No, he didn't.

11 Q. Yesterday, did you hear Victoria Margolis testify about
12 30-minute intake notes?

13 A. Yes, I did.

14 Q. And in the course of your investigation, did you
15 identify an intake note for Mr. Arif Ahmed?

16 A. Yes.

17 Q. I'm now showing you Government Exhibit I142. What is
18 this document?

19 A. It's a note in ICMS for Arif Ahmed.

20 Q. And what's the staff name listed here?

21 A. Victoria Margolis.

22 Q. And what is the date of service?

23 A. September 1, 2020.

24 Q. And what is the duration for this session that's listed
25 here?

1 A. 27 minutes.

2 Q. I'm next showing you what has been marked and admitted
3 as Government Exhibit E14. And zooming in on the To, From,
4 and CC line, who is this email from?

5 A. Gbetty@holyhealthcareservices.org.

6 Q. And who is this email to?

7 A. Eugenie@holyhealthcareservices.org and
8 Eugenie@theagathafoundation.org and it is CC'd to
9 Lambert.mbom@gmail.com.

10 Q. Going to Page 2 of this email, is this the body of the
11 email?

12 A. Yes, it is.

13 Q. And looking at the first line here, Victoria's using her
14 own personal money to pay the consumers a \$5 stipend when
15 they come into the office. Who do you understand Victoria to
16 be here?

17 A. Victoria Margolis.

18 Q. And what was her role at Holy Health?

19 A. She was the front desk receptionist at the location off
20 of Martin Luther King, Jr. Avenue.

21 Q. Yesterday, did you also hear Ms. Margolis testify about
22 notes for phone orders that she had completed and then found
23 in ICMS?

24 A. Yes.

25 Q. I'm now showing you what's been marked as Government

1 Exhibit E11. Is this the email -- zooming in at the top, is
2 this the email, the phone ordering procedures, that we
3 discussed yesterday with Ms. Margolis?

4 A. Yes.

5 Q. And who is this email from?

6 A. Infov@holyhealthcareservices.org.

7 Q. Are you familiar with the Holy Health employee who is
8 associated with this account?

9 A. Yes. Victoria Margolis.

10 Q. And who is this email to?

11 A. Lambert@holyhealthcareservices.org.

12 Q. And what's the subject provided here?

13 A. Lifeline Phone Ordering Procedure.

14 Q. And when was this email sent?

15 A. It was sent Tuesday, January 7, 2020.

16 Q. As a part of your investigation, did you identify a
17 related email sent by Mr. Mbom?

18 A. Yes, I did.

19 Q. I'm now showing you Government Exhibit E12. Is this the
20 email from Mr. Mbom that you identified?

21 A. Yes, it is.

22 Q. And who is this email sent to?

23 A. A_Danjeh@yahoo.com.

24 Q. Are you familiar with a Holy Health employee named D.
25 Anjeh?

1 A. Yes.

2 Q. And who is that?

3 A. Divine Anjeh.

4 Q. I'm now showing you Government Exhibit E6. Who is this
5 email from?

6 A. Infov@holyhealthcareservices.org or Victoria Margolis.

7 Q. And who is this email sent to?

8 A. Lambert@holyhealthcareservices.org.

9 Q. And what is the subject here?

10 A. List of Phone Orders for SE, or southeast.

11 Q. And what is the date provided?

12 A. 6 December 2019.

13 Q. Going down to Page 3, is this the list of phone orders
14 that we discussed yesterday with Ms. Margolis?

15 A. Yes, it is.

16 Q. And as a part of your investigation, did you look for an
17 email related to this email?

18 A. Yes, I did.

19 Q. On the right, I'm now showing you what's been marked as
20 Government Exhibit E9. Is this the email that you identified
21 that was related to the first email that we looked at on the
22 left?

23 A. Yes.

24 Q. Who is this email from?

25 A. This email is from Lambert@holyhealthcareservices.org.

1 Q. And who was this email sent to?

2 A. Danjeh@yahoo.com.

3 Q. And what is the subject line here?

4 A. Forward List of Phone Orders for SE.

5 Q. And what did you understand "forward" to mean here?

6 A. He was forwarding a previous email he received with,
7 now, the subject line, "List of Phone Orders for SE." He's
8 forwarding the email that he received from Ms. Margolis.

9 Q. And when was this email forwarded?

10 A. It was forwarded January 3, 2020.

11 Q. Going to the attachment to this email, Page 2, how does
12 this list from Government Exhibit E9 compare to the list from
13 E6 that's pictured on the left?

14 A. They're the same list.

15 Q. As a part of your investigation, did you look in ICMS to
16 see if notes were entered for phone orders for any of the
17 individuals on this list?

18 A. Yes, I did.

19 Q. And were you able to identify any ICMS notes for the
20 individuals?

21 A. Yes, several.

22 Q. I'm directing your attention to Government's Exhibits
23 I1E through I212b in the box next to you. Are those
24 documents the ICMS notes for the individuals on the phone
25 order list?

1 A. They are.

2 Q. Let's look at one example.

3 I'm showing you what's been marked as Government's
4 Exhibit I212. Is this an ICMS note?

5 A. Yes, it is an ICMS note.

6 Q. And is this the same ICMS note for Joel Mayo's phone
7 order that we discussed yesterday with Ms. Margolis?

8 A. Yes, I believe so.

9 Q. Who approved this note?

10 A. Mr. Mbom.

11 Q. And is this ICMS note consistent with the notes entered
12 for phone orders for the other individuals listed on the
13 phone order list?

14 A. Yes.

15 Q. Who also approved those other notes?

16 A. At this time, I don't recall.

17 Q. Let's take a look at an example. Is this another ICMS
18 note for a phone order?

19 A. Yes, it is.

20 Q. Who approved this note?

21 A. Mr. Mbom.

22 Q. Let's go back to the first note that we just looked at.

23 Showing you the first note that we looked at for Joel
24 Mayo, what is the original date of service listed here?

25 A. 10/17/19.

1 Q. And what is the original time in, the beginning time of
2 this session listed here?

3 A. 5:13 p.m.

4 Q. When did this session purportedly end?

5 A. 6:10 p.m.

6 Q. Were any of these values, then, subsequently revised?

7 A. Yes. Both of them were. The time in was revised to
8 10/30/19 at 1:15 p.m. and 10/30/19 at 10:10 p.m.

9 Q. I'm now showing you Government Exhibit I212a. What is
10 this document?

11 A. This document is a service log for the note we were just
12 looking at.

13 Q. And so what does this log generally show about the note
14 we just looked at?

15 A. It shows whether or not -- it's an activity log. It
16 shows who accessed it, when it was accessed, and whether or
17 not changes were made to the log.

18 Q. And looking at the row that I just highlighted here,
19 what does this row show?

20 A. It shows that the client visit record was updated by
21 Mr. Mbom on January 29, 2020.

22 Q. And if you clicked on Details here, would more details
23 pop up?

24 A. Yes. It's a hyperlink.

25 Q. I'm now showing you Government Exhibit I212b. Is this

1 document the details that would pop up?

2 A. Yes, it is.

3 Q. And what does this show about the note that we just
4 looked at?

5 A. It shows how the times were revised. Time in,
6 October 17, 2019, at 5:13 p.m. to October 30, 2019, at
7 1:15 p.m. Time out October 17, 2019, at 6:10 p.m. to
8 October 30, 2019, at 2:10 p.m.

9 Q. When Ms. Margolis testified yesterday, did you also hear
10 that she saw follow-on notes for the use of these telephones?

11 A. Yes.

12 Q. And in reviewing Holy Health's ICMS notes, did you
13 identify some of those follow-on notes?

14 A. Yes, I did.

15 Q. Now, directing your attention to Government Exhibit's
16 1214 to 1216 in that box, are those documents -- oh, they're
17 not in there?

18 A. Not in there.

19 MS. MCKOY: Court's indulgence.

20 BY MS. MCKOY:

21 Q. I'm not going to pull them right now, Special Agent
22 Moran, but were those notes, did you review those notes
23 before coming in to court today?

24 A. Yes, I did.

25 Q. Were those notes the ICMS notes for the follow-on

1 telephone orders that you identified?

2 A. Yes.

3 Q. Let me show you one of them.

4 This is Government Exhibit I126. What is the consumer
5 name listed here?

6 A. Joel Mayo.

7 Q. And is that the same consumer for whom we just looked at
8 an original ICMS note for?

9 A. Yes.

10 Q. And what is the staff name provided here?

11 A. Lambert Mbom.

12 Q. What is the date of service?

13 A. November 19, 2019.

14 Q. And looking at the documentation version history at the
15 bottom here, who originally created this document?

16 A. Divine Anjeh.

17 Q. I'm now showing you Government Exhibit I126a. Does this
18 document correspond to the ICMS note we just looked at?

19 A. Yes.

20 Q. And directing your attention to the row with the date
21 February 3, 2020, what does this row show?

22 A. It shows Mr. Mbom made changes to the notes.
23 Specifically, they relinked the employee on the client visit.

24 Q. After this change was made to the note that we just
25 looked at, who, if anyone, then viewed the note subsequently?

1 A. It appears on February 5, V. Margolis viewed the visit.

2 Q. This morning, did you hear Ms. Jeanne Foe testify about
3 entering ICMS notes for phone orders under Ms. Eugenie
4 Bakari's ICMS account?

5 A. Yes.

6 Q. And as a part of your investigation, did you identify
7 ICMS notes related to phone orders written under
8 Mrs. Bakari's ICMS account?

9 A. Yes.

10 Q. Let's look at an example. I'm now showing you
11 Government's Exhibit I220. What's the staff name listed
12 here?

13 A. Eugenie Bakari.

14 Q. Who does this document show approved this note?

15 A. Mr. Mbom.

16 Q. When did he approve this note?

17 A. 8/21/2020.

18 Q. Let's look at another example. What is the staff name
19 provided here?

20 A. Eugenie Bakari.

21 Q. Who does this document show approved this note?

22 A. Mr. Mbom.

23 Q. When did he do so?

24 A. August 5, 2020.

25 Q. And looking at a third, zooming in at the top, is this

1 the same staff name provided as the first two notes that we
2 just looked at?

3 A. Yes, Eugenie Bakari.

4 Q. And who approved this note, too?

5 A. Mr. Mbom.

6 Q. When did he do so?

7 A. He did so on the 20th of November, 2020.

8 Q. And are all of these notes, these three notes we just
9 looked at, are they all related to phone order applications?

10 A. Yes, they are.

11 Q. Yesterday afternoon, did you also hear Ms. Margolis
12 testify about a note that was entered for an individual named
13 Lagloria Brinkley on March 24, 2020, after Ms. Brinkley's
14 death?

15 A. Yes.

16 Q. And as a part of your investigation, did you review ICMS
17 notes that were entered for services allegedly rendered to
18 Ms. Brinkley?

19 A. Yes, I did.

20 Q. Let's look at one example.

21 I'm showing you what's been marked as Government's
22 Exhibit I230. What is the consumer name listed here?

23 A. Lagloria Brinkley.

24 Q. And what is the staff name listed here?

25 A. Without going through the full name, it's Success

1 Ambebi.

2 Q. And what is the date of service provided here?

3 A. It is listed as March 24, 2020.

4 Q. And looking at the billing matrix, what is shown here?

5 A. It's shown as a contact note.

6 Q. And again looking at the date March 24, 2020, this was a
7 note from four days after Ms. Brinkley's death?

8 A. Yes.

9 Q. I'm now showing you on the right Government's Exhibit
10 I231. What is this document?

11 A. This is the service log for the note for Lagloria
12 Brinkley.

13 Q. Which is the note that's on the left that we just looked
14 at?

15 A. Yes, it is.

16 Q. Looking at the first page and then scrolling down to the
17 second page and zooming in here for you so that you can see
18 this better.

19 So, again, looking at the second page and the first
20 page, generally what does this log show for the note on the
21 left?

22 A. It shows that numerous changes were made to the original
23 note.

24 Q. After the changes were made and looking at rows for the
25 dates April 1, 2020, and March 3, 2020, who, then, viewed the

1 note?

2 A. V. Margolis.

3 Q. And then on April 8, 2020, who then viewed the note?

4 A. Mr. Mbom. He also did so on April 3, 2020.

5 Q. And did you look at the details of the changes that were
6 made to the ICMS note?

7 A. Yes, I did.

8 Q. I'm showing you on the right Government's Exhibit I232.
9 What does this document show?

10 A. This shows us that the note was originally put in, the
11 note that was entered on March 26, 2020, was originally put
12 in as a community support note reflecting 4 units of service
13 were provided and \$97.08 were billed to Medicaid.

14 Q. And what were those values then changed to?

15 A. They were changed to zero billed to Medicaid, one unit,
16 and this was changed to a contacts note.

17 Q. I'm now showing you Government's Exhibit I235, which is
18 the second ICMS note for the consumer Lagloria Brinkley.
19 What is the staff name listed here?

20 A. Nicole Aminkeng.

21 Q. And what is the listed date of service?

22 A. May 2, 2020.

23 Q. Approximately, how long is May 2, 2020, after
24 Ms. Brinkley's death?

25 A. Approximately six weeks.

1 Q. So on the left I still have Government Exhibit I235 and
2 on the right, I've now pulled up Government Exhibit I236. Is
3 this another service log?

4 A. Yes, it is.

5 Q. And does this correspond to the note that we just looked
6 at for Ms. Brinkley?

7 A. Yes, it does.

8 Q. And does this log show that any changes were made to
9 that ICMS note?

10 A. It does appear it was modified on the 13th of May, 2020.

11 Q. And who made that change?

12 A. A.D. Lubega.

13 Q. And now looking at May 11, 2021, who, then, accessed
14 this note after that change was made?

15 A. Lambert Mbom.

16 Q. Yesterday, did you also hear Ms. Margolis testify that
17 she saw ICMS notes written under Mr. Mbom for a consumer
18 named Brian Wesley?

19 A. Yes.

20 Q. And as a part of your investigation, did you identify
21 ICMS notes that were written under Mr. Mbom for Brian Wesley?

22 A. Yes, I did.

23 Q. Let's look at one example.

24 I'm showing you Government's Exhibit I240. And zooming
25 in at the top here, is Brian Wesley the consumer name listed

1 here?

2 A. Yes.

3 Q. What is the staff name?

4 A. Lambert Mbom.

5 Q. And what is the date of service provided here?

6 A. March 25, 2020.

7 Q. And what is the original time in?

8 A. 2 p.m.

9 Q. And what is the original time out or end of the session
10 that's listed here?

11 A. 2:30 p.m.

12 Q. Was the end of the session time, then, subsequently
13 revised?

14 A. Yes. It was changed to 2:54 p.m.

15 Q. How many units did Holy Health bill Medicaid for
16 services allegedly rendered to Mr. Wesley on March 25, 2020?

17 A. Four units, or one hour.

18 Q. And who does this document show approved this note?

19 A. Mr. Mbom.

20 Q. And when did he do so?

21 A. He did so on March 27, 2020.

22 Q. And then looking at the Documentation Version History at
23 the bottom here, what does this section generally show about
24 this note?

25 A. It shows the versions of the note.

1 Q. And there are two versions here. Who made the first
2 version?

3 A. A Rayleen Olarte.

4 Q. And who made the second version?

5 A. Lambert Mbom.

6 Q. So on the left, I still have the same ICMS note that we
7 just discussed, I240. And now on the right, I've pulled up
8 Government's Exhibit I241. What is this document on the
9 right?

10 A. It's the service log for the Brian Wesley note we were
11 looking at.

12 Q. And looking at March 27, 2020, for the user L. Mbom,
13 what does this row show?

14 A. It shows he made some sort of update to the note.

15 Q. And did you review the details for that change?

16 A. Yes, I did.

17 Q. And when was that change made?

18 A. It was made on March 27, 2020, the same day he approved
19 it.

20 Q. On the right is Government's Exhibit I242. Are these
21 the details of the changes for the note on the left?

22 A. Yes, they are.

23 Q. And what does this show here?

24 A. It tells us that the time was changed from 2:30 to
25 2:54 p.m. on the same day. And that, then, increased the

1 number of units billed from 2 to 4, or \$48.54 billed to
2 \$97.08 billed to Medicaid.

3 Q. Directing your attention to January 12, 2022, did you
4 conduct an interview with Mr. Mbom that day?

5 A. Yes, I did.

6 Q. Where did that interview take place?

7 A. Riverdale, Maryland.

8 Q. And was Mr. Mbom in custody at this point?

9 A. Yes, he was.

10 Q. Was the interview recorded?

11 A. Yes, it was.

12 Q. How was the interview recorded?

13 A. Using an FBI device.

14 Q. Prior to the beginning of the interview, was Mr. Mbom
15 advised of his Miranda rights?

16 A. Yes, he was.

17 Q. How was he advised of his Miranda rights?

18 A. I allowed him to read the document while I read it to
19 him out loud.

20 Q. What document are you referencing?

21 A. An FD-395, which is an Advice of Rights Form.

22 Q. And did Mr. Mbom advise that he was willing to speak
23 with an agent?

24 A. He said he was willing to speak with an agent. He also
25 signed the Advice of Rights Form.

1 Q. Pulling up Government's Exhibit L2, is this the Advice
2 of Rights Form that you just referenced?

3 A. Yes, it is.

4 Q. And who signed this document?

5 A. Mr. Mbom signed it.

6 Q. And who are the witnesses listed here?

7 A. Myself, Jim Moran, and Special Agent Benjamin Mathis.

8 Q. Who is Special Agent Benjamin Mathis?

9 A. He's another Special Agent at the FBI.

10 Q. Directing your attention to the CD in the box that's
11 marked as Government Exhibit L1a through L1k. Does that
12 CD contain excerpts of the recordings of your interview with
13 Mr. Mbom?

14 A. Yes, it does.

15 Q. And were the recordings retained in a secure FBI system?

16 A. Yes, they were.

17 Q. I'm also directing your attention to transcripts marked
18 as Government's Exhibits T1a through T1k. And did you review
19 those transcripts before coming to court today?

20 A. I did. I did.

21 MS. MCKOY: Your Honor, we have copies of
22 transcripts that we'd like to distribute to the jury at this
23 point.

24 THE COURT: Okay.

25

1 BY MS. MCKOY:

2 Q. At the beginning of your interview with Mr. Mbom, did
3 you ask him about his role and responsibilities at Holy
4 Health?

5 A. Yes, I did.

6 Q. I am first playing for you what's been marked as
7 Government's Exhibit L1a, which corresponds to Transcript
8 T1a.

9 I'm playing from the beginning here.

10 One second. Let me turn on the volume.

11 (Audio played.)

12 BY MS. MCKOY:

13 Q. Stopping at 3 seconds. Do you recognize that voice?

14 A. Could you honestly play it for a few more seconds?

15 Q. Yes.

16 A. It's very muffled.

17 (Audio played.)

18 THE COURT: I can't hear it.

19 THE WITNESS: I can't hear it, either.

20 BY MS. MCKOY:

21 Q. Okay. Let's try this again. Starting from the
22 beginning.

23 (Audio played.)

24 A. That's me.

25 Q. Let's continue playing at 3 seconds.

1 (Audio played.)

2 BY MS. MCKOY:

3 Q. Pausing at 7 seconds. Do you recognize that voice?

4 A. That's Mr. Mbom.

5 Q. Okay. Let's play again from the beginning.

6 (Audio played.)

7 BY MS. MCKOY:

8 Q. Later in the interview, did you ask Mr. Mbom about
9 fraudulent notes being put in the ICMS system?

10 A. Yes.

11 Q. I'm next playing for you Government's Exhibit L1b, which
12 corresponds to Transcript T1b.

13 (Audio played.)

14 BY MS. MCKOY:

15 Q. In the course of your investigation, did you review ICMS
16 notes for FBI confidential source Omar Murdoch that were
17 approved by Mr. Mbom?

18 A. Yes, I did.

19 Q. I'm now showing you Government's Exhibit S1, which we
20 discussed on Tuesday. Can you remind the jury what this
21 chart generally shows?

22 A. This is billing for versus time for services rendered
23 for Omar Murdoch.

24 Q. Looking at April 18, 2019, that date of service, based
25 on your review of Mr. Murdoch's recordings at Holy Health,

1 approximately how long did Mr. Murdoch meet with a Holy
2 Health provider that day?

3 A. Seven minutes.

4 Q. How many units did Holy Health bill for services
5 allegedly rendered to Mr. Murdoch that day?

6 A. Four units, or approximately 60 minutes.

7 Q. Now, looking at Government's Exhibit I26, is this an
8 ICMS note for Mr. Murdoch's April the 1st, 2019, visit?

9 A. Yes, it is.

10 Q. Who is the staff member here?

11 A. Evelyn Chung.

12 Q. Who does this document show approved this ICMS note?

13 A. Mr. Mbom.

14 Q. Let's go back to the chart for Mr. Murdoch and look at
15 May 22, 2019. Did Mr. Murdoch meet with a Holy Health
16 provider that day?

17 A. No, he did not.

18 Q. How many units did Holy Health bill Medicaid for
19 services allegedly rendered to Mr. Murdoch for that day?

20 A. Four units.

21 Q. Looking at Government's Exhibit I39, is the date of
22 service May 2, 2019, here?

23 A. Yes, it is.

24 Q. And is this for Mr. Murdoch?

25 A. Yes, it is.

1 Q. What is the staff name provided here?

2 A. Evelyn Chung.

3 Q. Who does this document show approved this ICMS note?

4 A. Mr. Mbom.

5 Q. Let's go back to the recordings.

6 Yesterday, did you hear Mr. Dominic Forka testify in
7 court?

8 A. Yes.

9 Q. And in the course of your interview of Mr. Mbom, did you
10 ask him about notes by Mr. Forka?

11 A. Yes, I did.

12 Q. I'm pulling up Government's Exhibit L1c, which
13 corresponds to Transcript at T1c.

14 Playing from the beginning.

15 (Audio played.)

16 BY MS. MCKOY:

17 Q. Later in the interview, did you ask Mr. Mbom, again,
18 about notes entered by Mr. Dominic Forka?

19 A. Yes.

20 Q. Playing for you the next clip, Government's Exhibit L1d,
21 which corresponds to Transcript T1d.

22 (Audio played.)

23 BY MS. MCKOY:

24 Q. In the course of your investigation, did you pull ICMS
25 notes that were entered by Mr. Forka and then approved by

1 Mr. Mbom?

2 A. Yes.

3 Q. And was that data pulled as an Excel spreadsheet marked
4 as Government's Exhibit I271?

5 A. Yes.

6 Q. And was a PDF version then generated?

7 A. Yes.

8 Q. I'm now showing you Government's Exhibit I271a. Is this
9 the PDF that was generated?

10 A. Yes, it is.

11 Q. And what does this spreadsheet, generally, show?

12 A. Exactly what you said it is. It's a spreadsheet with
13 all the services that were written under the name Dominic
14 Forka and approved by Mr. Mbom in ICMS.

15 Q. And so going to the column where it says, "APPR user,"
16 what does that column prefer to?

17 A. That's who approved the notes.

18 Q. And what user is provided there?

19 A. Lmbomb1.

20 Q. And looking at the Base Units Column, how many units are
21 provided in this column?

22 A. Four.

23 Q. Going to the last page of this spreadsheet, in total,
24 how many notes were entered under Mr. Forka that were then
25 approved by Mr. Mbom?

1 A. 1,402.

2 Q. In looking -- going back to the first page -- I'm
3 looking at the Location Column here. What does location
4 refer to?

5 A. Where the service happened.

6 Q. And what is listed as a location for these notes?

7 A. For these first 51, it appears home is listed as the
8 location.

9 Q. And would that be the consumer's home?

10 A. Yes.

11 Q. And just scrolling through this spreadsheet, what are
12 the other locations provided here?

13 A. Predominantly we see home and homeless shelter with a
14 little bit of office sprinkled in, which I believe office
15 would refer to Holy Health office.

16 Q. Let's look at one of these ICMS notes.

17 So I'm now showing you Government's Exhibit I105.

18 Zooming in at the top here, who is the consumer name listed
19 here?

20 A. Darlene Williams.

21 Q. What is the staff name?

22 A. Dominic Forka.

23 Q. And what is the date of service?

24 A. January 26, 2020.

25 Q. And based on your review of Ms. Williams' recorded visit

1 at Holy Health, did she see a consumer -- excuse -- did she
2 see a Holy Health provider that day?

3 A. No, she did not.

4 Q. How many units did Holy Health bill Medicaid for
5 services allegedly rendered to Ms. Williams?

6 A. Four units.

7 Q. And who, according to this document, approved this note?

8 A. Mr. Mbom.

9 Q. In your interview with Mr. Mbom, did you ask him about
10 payments to Holy Health consumers?

11 A. Yes, I did.

12 Q. Let's go to the next clip. I'm about to play
13 Government's Exhibit L1e, which corresponds to transcript
14 T1e.

15 (Audio played.)

16 BY MS. MCKOY:

17 Q. Further in the interview, did you ask Mr. Mbom about
18 Julius Bakari's awareness of fraudulent notes in ICMS?

19 A. Yes, I did.

20 Q. I'm next going to play for you Government's Exhibit L1g.
21 So we're just skipping over one clip from now. That
22 corresponds to transcript T1g.

23 Playing from the beginning here.

24 (Audio played.)

25

1 BY MS. MCKOY:

2 Q. Yesterday, did you hear Francis Senesie testify in
3 court?

4 A. Yes, I did.

5 Q. And in the interview with Mr. Mbom, did you ask him
6 about Mr. Senesie?

7 A. Yes, I did.

8 Q. I'm next pulling up Government's Exhibit L1h, which
9 corresponds to Transcript Government's Exhibit T1h. Let's
10 play.

11 (Audio played.)

12 BY MS. MCKOY:

13 Q. Later in the interview, did you ask Mr. Mbom, again,
14 about Mr. Senesie?

15 A. Yes, I did.

16 Q. Let's go to the next clip, which has been marked as
17 Government's Exhibit L1i, which corresponds to the Transcript
18 T1i. Playing from the beginning.

19 (Audio played.)

20 BY MS. MCKOY:

21 Q. In that clip, Mr. Mbom mentions "Dedicated." Are you
22 familiar with what Dedicated is?

23 A. Yes. Dedicated Health is another behavioral health
24 agency in Washington, D.C.

25 Q. In the course of your investigation, did you also review

1 text communications between Mr. Mbom and Mr. Senesie?

2 A. Yes, I did.

3 Q. I'm now showing you what's been admitted as Government's
4 Exhibit B38. Zooming in on the participants section of the
5 first page, who's listed here?

6 A. Lambert Mbom and Francis Senesie.

7 Q. Jumping to Page 19 and zooming in on the green message
8 here, who is this message, this text from?

9 A. It is from Mr. Mbom.

10 Q. And is it being sent to Mr. Senesie?

11 A. Yes.

12 Q. And under the message, "text me please," there's, then,
13 a status: "Read." When was this message read by
14 Mr. Senesie?

15 A. It was read on July 15, 2021.

16 Q. How many months is that after the FBI search of Holy
17 Health's offices?

18 A. A little over two months.

19 Q. Earlier this week, did you hear Mr. Fru Nde testify in
20 court?

21 A. Yes.

22 Q. And in your interview with Mr. Mbom, did you ask him
23 about Mr. Nde?

24 A. Yes.

25 Q. Going to Government's Exhibit L1f, which is the next

1 clip, corresponds to the Transcript T1f. Playing from the
2 beginning.

3 (Audio played.)

4 BY MS. MCKOY:

5 Q. Further in the interview, did you ask Mr. Mbom about
6 Mr. Nde?

7 A. Yes, we spoke about it in the interview.

8 Q. Going to the next clip, Government's Exhibit L1j, which
9 corresponds to the Transcript T1j. Playing from the
10 beginning.

11 (Audio played.)

12 BY MS. MCKOY:

13 Q. Pausing at 50 seconds. In this clip, did you receive a
14 personal phone call?

15 A. Yes. My wife Jessica.

16 Q. That's not Mia calling Ms. Collins; right?

17 A. No. My wife is also named Jessica.

18 (Audio played.)

19 BY MS. MCKOY:

20 Q. In that clip, Mr. Mbom mentions that Mr. Nde and another
21 individual named Alfred Fielding came in together to Holy
22 Health. In the course of your investigation, did you review
23 ICMS notes entered under Fru Nde and Mr. Alfred Fielding?

24 A. Yes, I did.

25 Q. I'm now showing you Government's Exhibit I2. What is

1 the consumer name listed for this ICMS note?

2 A. Steven Blyther.

3 Q. And who is listed as the staff name?

4 A. Nicholas Nde.

5 Q. And what is the provided date of service?

6 A. 1/12/2021.

7 Q. And what is the time in or the beginning of this session
8 listed as?

9 A. 10:15.

10 Q. And what is the time out or the end of the session?

11 A. 11:15.

12 Q. Who approved this note?

13 A. Mr. Mbom.

14 Q. How many units did Holy Health bill Medicaid for
15 services allegedly rendered to Mr. Blyther?

16 A. Four units.

17 Q. On the left, I still have the same ICMS notes we
18 discussed, I2. And on the right I've now pulled up I250.
19 What is the consumer name here?

20 A. Steven Blyther, again.

21 Q. Is that the same consumer listed in the first note that
22 we just looked at?

23 A. Yes, it is.

24 Q. And what is the staff name?

25 A. Alfred Fielding.

1 Q. And the date of service?

2 A. Once again, January 12, 2021.

3 Q. And so that's the same as the first note we just looked
4 at?

5 A. Yes, same day.

6 Q. And what is the time in?

7 A. Time, this is 11:45.

8 Q. And what is the time out or the end of the session?

9 A. 12:36.

10 Q. And who approved this note?

11 A. Mr. Mbom did.

12 Q. How many units did Holy Health bill Medicaid for
13 services allegedly rendered to Mr. Blyther?

14 A. Three units.

15 Q. Now, let's just look at both notes. Zooming in again.
16 And just looking at the time in and time out listed for both
17 notes.

18 You just discussed that for the second note for
19 Mr. Blyther on January 12, 2021, the beginning of that
20 session was 11:45. And looking at that value and then
21 comparing to it the time out for the first note for
22 Mr. Blyther from the same date, how soon after is that second
23 session purportedly starting at the first session?

24 A. 30 minutes.

25 Q. Now, let's just go to the documentation sections of both

1 notes. Go down. And zooming in on the Documentation section
2 for this first note, what does this section generally
3 provide?

4 A. This tells us what, theoretically, happened or allegedly
5 happened during the service.

6 Q. Let's go to the Documentation section of I250.

7 Scrolling down, so this is the second note, again, for
8 Mr. Blyther on January 12, 2021. And looking at the section
9 I just highlighted here, what is generally discussed in this
10 note for the second session that purportedly happened that
11 day?

12 A. Well, in the section you highlighted, they talk about
13 Mr. Blyther's bed bug infestation and his sadness that he has
14 bed bugs and their plans to, I guess, talk to the apartment
15 complex about the bed bug infestation.

16 Q. And then going back to that first note from Mr. Blyther
17 from the same day, and looking at the Documentation section,
18 any mention of bed bugs?

19 A. No bed bugs.

20 Q. Later in the interview with Mr. Mbom, did you ask him
21 about notes that were entered by Mr. Nde for a period prior
22 to when he started working at Holy Health?

23 A. Yes, I did.

24 Q. Let's play another clip, Government's Exhibit L1k, which
25 corresponds to Transcript T1k. Playing from the beginning.

1 (Audio played.)

2 Q. On Tuesday you discussed that in the course of your
3 investigation, you reviewed an ICMS account creation report.

4 A. Yes.

5 Q. I'm now showing you Government's Exhibit I260a. Is this
6 the report that you pulled?

7 A. Yes.

8 Q. Well, PDF version of it.

9 A. Yes.

10 Q. And looking again at the row that's listed for N. Nde.
11 Is that Mr. Nde who testified in court earlier this week?

12 A. Yes, Fru Nicholas Nde.

13 Q. And according to the reports pulled from ICMS, who
14 created Mr. Nde's ICMS account?

15 A. Mr. Mbom.

16 Q. And when was Mr. Nde's account created by Mr. Mbom?

17 A. December 21, 2020.

18 Q. In the course of your investigation, did you review
19 ICMS' notes that were entered by Mr. Nde and then approved by
20 Mr. Mbom?

21 A. Yes, I did.

22 Q. I'm now showing you Government's Exhibit I10. Zooming
23 in on the top here, who is the consumer?

24 A. Shelly Baltimore.

25 Q. And what is the staff name?

1 A. Nicholas Nde.

2 Q. How many units did Holy Health bill Medicaid for
3 services allegedly rendered to Ms. Baltimore?

4 A. Four units.

5 Q. Apologies. What is the date of service provided here?

6 A. October 13, 2020.

7 Q. Comparing that date to the date for when Mr. Nde's ICMS
8 account was created, how many months before is this date of
9 service from when Mr. Nde's ICMS account was created?

10 A. This date of service is about 2-1/2 months before an
11 ICMS account was created for Fru Nicholas Nde.

12 Q. And how many units did Holy Health bill Medicaid for
13 services allegedly rendered by Mr. Nde on October 13, 2020?

14 A. Four units.

15 Well, four units for this particular service.

16 Q. And who approved this note?

17 A. Mr. Mbom.

18 Q. And just scrolling down to the documentation version
19 history, according to this section, who created this note?

20 A. Nicholas Nde created the note.

21 Q. When did he create this note?

22 A. On December 30, 2020.

23 Q. And how long after is that from the date of service
24 provided for this note?

25 A. 2-1/2 months.

FURTHER DIRECT OF JAMES MORAN BY MS. MCKOY 482

1 MS. MCKOY: The Government passes the witness, Your
2 Honor.

3 THE COURT: Okay. Why don't we take our second
4 break of the day, give you all 20, and we'll be back and
5 Mr. Robbins will have his Cross. Thanks so much.

6 THE CLERK: All rise for the jurors.

7 (The jury left the courtroom at 12:23 p.m., and the
8 following proceedings were had out of the presence of
9 the jury.)

10 THE COURT: All right, Counsel. Need me for
11 anything?

12 MS. COLLINS: No, Your Honor.

13 MR. ROBBINS: No.

14 THE COURT: Be back in 20. Thanks.

15 THE CLERK: Court stands in recess.

16 (Recess held from 12:24 to 12:53 p.m.)

17 THE COURT: All right, everybody. Are we ready for
18 the jury?

19 (The jury came back into the courtroom at 12:53 p.m.,
20 and the following proceedings were had in the
21 presence of the jury.)

22 All right, everyone. You could have a seat.

23 Mr. Robbins, whenever you're ready.

24 MR. ROBBINS: Thank you, Your Honor.
25

1 CROSS-EXAMINATION

2 BY MR. ROBBINS:

3 Q. Special Agent Moran, good afternoon.

4 A. Good afternoon.

5 Q. I'm still Gar Robbins.

6 You've testified for a fairly significant period of time
7 between the first day of trial and today. I have only a
8 couple of small areas of questions.

9 When you testified about your confidential human
10 sources, the people like Darlene Williams or Arif Ahmed, you
11 talked about the videos that you made; correct?

12 A. Yes.

13 Q. And you had a couple of summary exhibits that we looked
14 at about their visits; correct?

15 A. Yes.

16 Q. On those summary exhibits, you have lines where you said
17 that those individuals did not go to Holy Health; correct?

18 A. Yes.

19 Q. And those, when you say the individuals did not go to
20 Holy Health, that's based on the fact that you did not have
21 them wired and did not observe them going to Holy Health?

22 A. Correct.

23 Q. It wasn't that you had stakeouts set up in front of Holy
24 Health and watched whether they came in?

25 A. Correct. I did not have 24/7 surveillance.

1 Q. Right. That wouldn't be reasonable to expect.

2 Your first day of testifying, you told us from your
3 background you were a naval officer at one time --

4 A. Yes.

5 Q. -- before you were in the FBI, a long time ago.

6 Did you happen to serve in ships?

7 A. Yes.

8 Q. Were you ever exposed to the circumstances where gunnery
9 exercises occurred and there are lots of rounds fired fairly
10 rapidly?

11 A. Yes, it happened.

12 Q. When that happens, the gunnery department's supposed to
13 keep track of all those rounds and what sequences they get
14 fired in; correct?

15 A. Yes.

16 Q. And yet in a wild environment, sometimes they have to
17 generate those logs after the fact; don't they?

18 A. Well, so here it is. I was actually the gunnery officer
19 on my ship. And, no, that's not really how it works. You
20 actually do all that accounting beforehand. And basically
21 because you've got all open sea, you fire every round you
22 accounted for in advance.

23 And, no, it's 100 percent accountability.

24 Q. Have you ever heard the term -- if you were a gunnery
25 officer, this is even better.

1 Have you ever heard the term "gun decking?"

2 A. I've heard the term gun decking.

3 Q. Maybe it's an old school term now that there are
4 computers, but what was gun decking?

5 A. I don't recall the derivation of the term, but gun
6 decking simply refers to falsifying something.

7 Q. Is it falsifying or is it trying to build a record after
8 it actually occurred?

9 A. We always used it as falsifying. It was a pretty
10 derogatory term.

11 MR. ROBBINS: All right. Thank you.

12 No further questions, Your Honor.

13 THE COURT: Redirect?

14 MS. MCKOY: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MCKOY:

17 Q. Mr. Robbins asked you about the FBI's confidential
18 sources that were used in your investigation. Were those
19 confidential human sources prior patients at Holy Health?

20 A. No, they were not.

21 Q. They weren't already patients of Holy Health before law
22 enforcement directed them to visit Holy Health?

23 A. No, they were not.

24 Q. Did they only go to Holy Health at all because the FBI
25 directed them to go to Holy Health?

1 A. Yes.

2 MS. MCKOY: No further questions, Your Honor.

3 THE COURT: Okay. All right.

4 Agent Moran, that concludes your testimony. You
5 may step down.

6 Government?

7 MR. SARMA: The Government rests at this point,
8 Your Honor.

9 THE COURT: Okay. All right.

10 So, Ladies and Gentlemen, this means that you guys
11 get to go home. Since the Government's case is rested, you
12 all will have today, the rest of the day, and tomorrow off.
13 So I will see you back here Monday morning ready to start at
14 8:45.

15 So, with the long weekend for you all, extra
16 reminder: No talking, no texting, no tweeting, no
17 Internetting, no research, no communication about this case
18 whatsoever. Just enjoy your long weekend. And be back here
19 for 8:45 start.

20 And just let me confirm. Mr. Clerk, you have all
21 of the cell phones numbers of all of our jurors?

22 THE CLERK: I do, Your Honor.

23 THE COURT: Okay. Great.

24 So, I don't anticipate we'll need to contact you,
25 but out of an abundance of caution. All right?

REDIRECT OF JAMES MORAN BY MS. MCKOY

487

1 Thank you all. Have a great weekend.

2 THE CLERK: All rise for the jury.

3 MS. MCKOY: Your Honor, briefly. Just, if you
4 could let the jurors know to leave their transcripts here.

5 THE COURT: Oh, yes. Thank you.

6 If you would, just leave your notes and your
7 transcripts on your seats, and we'll take care of it.

8 A JUROR: Oh, on the seats?

9 THE COURT: Yep. Or in front of you, either way.
10 We'll be able to pick them up. Just don't take them with
11 you.

12 (The jury left the courtroom at 1:00 p.m., and the
13 following proceedings were had out of the presence of
14 the jury.)

15 THE COURT: All right, everyone. When would you
16 all like to reconvene? I'm open this afternoon. I was going
17 to be spending it with you all, so you tell me.

18 MS. COLLINS: We defer to defense counsel on this.

19 MR. ROBBINS: Your Honor, we can make the Rule 29
20 motion at any time. I would like probably 25 minutes, maybe
21 30, with my client.

22 THE COURT: Okay.

23 MR. ROBBINS: I think we're closer to a decision
24 than we had been when I made my first representation to the
25 Court, but it's still something -- it's just a serious phase.

REDIRECT OF JAMES MORAN BY MS. MCKOY

488

1 THE COURT: Sure, sure, sure. No, I understand.

2 So, let me ask it a little more specifically.

3 Do you all want to pick a time where you come back,
4 you make your Rule 29 motion, we do the instructions and the
5 voir dire of Mr. Mbom all at the same time so then when we're
6 done, you all are on your way?

7 MR. ROBBINS: That sounds marvelous, Your Honor,
8 from our perspective. In that case, I would want more than
9 30 minutes.

10 THE COURT: Sure.

11 MR. ROBBINS: Because I also need to go through --
12 we've discussed the instructions. And I think that we're
13 pretty close with a couple of small areas that we'll probably
14 end up having to be resolved by the Court. But if we could
15 come back at 1400, that would be 2 o'clock.

16 THE COURT: 2 o'clock, yeah, I know. Even though I
17 did not serve in the military, I've been around enough to
18 know how to convert military time.

19 MR. ROBBINS: Well, you know, if you ever want to
20 catch a train in Europe, they're important things to know.

21 THE COURT: Right. This is true.

22 So, 2:00 is fine by me.

23 Does that work for the Government?

24 MS. COLLINS: That works for the Government, Your
25 Honor.

REDIRECT OF JAMES MORAN BY MS. MCKOY

489

1 THE COURT: Okay.

2 MS. COLLINS: And, Your Honor, I did email a copy
3 with the changes incorporated, and it's highlighted where the
4 few remaining areas of disagreement are.

5 THE COURT: Okay. So if it's redline and it's not
6 highlighted, you all agree; and as long as I'm good with it,
7 I can accept the change?

8 MS. COLLINS: Yes, Your Honor. That should be the
9 case. I had given it to Mr. Robbins, just to double-check.
10 So I would ask you not incorporate quite yet.

11 THE COURT: Don't do it quite yet.

12 MS. COLLINS: Yes.

13 THE COURT: All right.

14 MR. ROBBINS: I just got them in my hands, so...

15 THE COURT: No problem.

16 Do you all need me to print out hard copies for
17 2 o'clock?

18 MR. ROBBINS: No. The Government was gracious
19 enough to provide them.

20 THE COURT: Okay. So you've got it. We'll just
21 take it from the top at 2:00. All right? Very good.

22 All right. Thanks.

23 THE CLERK: All rise. This court stands in recess.

24 (Recess held from 1:03 to 2:03 p.m.)

25 THE COURT: All right. Good afternoon, everybody.

1 You all can have a seat.

2 Okay. I was thinking why don't we take,
3 Mr. Robbins, your Rule 29 motion first, then we can discuss
4 jury instructions and then finally the voir dire.

5 MR. ROBBINS: Thank you, Your Honor.

6 DEFENDANT'S ARGUMENT

7 Rule 29 motion is going to concern three counts,
8 one of those counts being the submission of false statements.
9 We are not going to argue that the Government does not have
10 enough evidence to proceed there.

11 THE COURT: Okay.

12 MR. ROBBINS: So, that's Count Two. Count Two we
13 offer no argument.

14 On the fraud, we believe that the Government has
15 failed to present adequate evidence to go to the jury --
16 that's Count One -- in that they have not shown that there
17 was any intent on the part of --

18 THE COURT: You know what, it might be better if
19 you go to -- yeah, yeah.

20 MR. ROBBINS: I'm whispering again.

21 THE COURT: Perfect.

22 MR. ROBBINS: I didn't used to have that problem.
23 It must be the failing voice with the years.

24 On the first count, Count One, the fraud count, we
25 urge the Court to dismiss that count at this stage on the

1 basis that the Government has not presented evidence to show
2 that Mr. Mbom participated in that conspiracy knowingly and
3 willingly with the intent to commit fraud. And I'll note on
4 the element of intent, there's not adequate evidence.

5 The third count, the Anti-Kickback Statute, is
6 stronger yet. Not only was there no intent, but there's
7 really been no evidence whatsoever about Mr. Mbom being
8 involved in what appears to be the basis of the Government's
9 theory, which is the incentive payments being made to the
10 consumers, and Mr. Mbom was not involved in that in any way.
11 That was Mr. Bakari's operation and Mrs. Bakari. Mrs. Bakari
12 offered a lot of funding with respect to the consumers. And
13 the arrangement with respect to recruiting was ultimately
14 also negotiated by Mr. Bakari.

15 If you remember the testimony about the approach to
16 Holy Health about being a client recruiter, the witness that
17 I went to see, Lambert Mbom, and he said, "I don't know. I
18 will bring that information to Bakari. That's not something
19 I'm going to have anything to do with." And he connected the
20 participants.

21 So, to the extent that his connection of the
22 participants is a participation conspiracy, that would be the
23 extent of the Government's evidence. We suggest that that's
24 not enough evidence to go to trial -- I mean, to pass that
25 count to the jury to make a decision on his participation on

1 that offense.

2 THE COURT: Okay. All right. Thank you.

3 Mr. Sarma, do you wish to be heard?

4 GOVERNMENT'S ARGUMENT

5 MR. SARMA: Very, very briefly, Your Honor.

6 THE COURT: Uh-huh.

7 MR. SARMA: As to Count One, we think that between
8 the text messages and other communications entered into
9 evidence as well as testimony from both the charged and
10 uncharged co-conspirators, that there are communications with
11 Mr. Mbom. We think there's a reasonable inference here to
12 suggest that Mr. Mbom did intend to defraud Medicare.

13 I'm not sure -- if there's a charge for wire fraud,
14 it would be under the same theory, that there were
15 communications including with Mr. Forka. Mr. Forka would
16 write notes in Maryland; the purpose of those notes was to
17 defraud Medicaid.

18 So, that is to Count One.

19 As to Count Three, again, that's charged. If I
20 understand Mr. Robbins' argument on that one, the Government
21 didn't ever allege, you know, dispute Mr. Mbom was never
22 handing the cash, right. This is a charge of conspiracy.

23 THE COURT: Conspiracy, right.

24 MR. SARMA: The Government -- you heard testimony
25 today, for example, that Ms. Foe had conversations about

1 paying the cash, which informed him that she believed they
2 were illegal, went to talk to him directly; and then he had
3 conversations with Bakari. The payments didn't stop.

4 There were also conversations -- Ms. Margolis also
5 testified true knowledge of the payments. We're alleging
6 that he was in the conspiracy with others, including Ms. Foe,
7 Bakari, Ms. Margolis in order to pay these cash bribes to
8 consumers.

9 THE COURT: On that last one, what evidence would
10 you point to regarding active participation in the conspiracy
11 part? Do you see what I'm saying? Like, I totally agree
12 with you it doesn't take, frankly, much under conspiracy.
13 Mr. Robbins is saying there's none. And mere presence isn't
14 enough. So, what is it?

15 MR. SARMA: I would figure it would be the
16 discussions where people are putting him on alert.
17 There's -- I think the fact that he talks to Mr. Bakari and
18 Mrs. Bakari and then, you know, the overt acts continue. At
19 least the evidence showed that they had some conversation.
20 They decided to let these acts continue onward.

21 THE COURT: So, you're saying in the context of the
22 larger conspiracy.

23 MR. SARMA: Right.

24 THE COURT: This part of it, which included the
25 kickbacks, or the bribes, some of the strongest evidence

COURT'S RULING

494

1 would be that Mr. Mbom knew, directly knew, directly
2 consulted with his co-conspirators even in the face of others
3 saying don't do it, and they decided to continue with it.

4 MR. SARMA: Exactly.

5 THE COURT: That goes to intent?

6 MR. SARMA: And we would also offer, there was also
7 a discu- -- and I think there would be argument on either
8 side to the jury on this. I think it's a question for the
9 jury.

10 I think our position's going to be the conspirators
11 decided to paper over it by putting it into the -- you know,
12 claiming it was the Agatha Foundation. We showed Ms. Foe
13 evidence today, as well as Ms. Margolis yesterday, that the
14 money was coming from the same source. So, the fact that
15 they were kind of shifting the name even though the source of
16 the funds was coming from the same place -- in fact, it was a
17 foundation run out of the same company as Holy Health -- is
18 further indic- -- and that, I think there was also testimony
19 today that Mr. Mbom also thought that was a good idea to say
20 it was the Agatha Foundation, further shows his active
21 participation in continuing in the conspiracy and trying to
22 hide it from the Government.

COURT'S RULING

23
24 THE COURT: Okay. I understand it. Thank you.

25 So, you know, the test in this regard is quite

JURY INSTRUCTION CONFERENCE

495

1 unforgiving for the defense. It's all evidence in the light
2 most favorable to the Government, is the way in which I need
3 to assess a Rule 29 motion. And if there's a scintilla of
4 credible evidence, that, you know, as thin as it may be from
5 the defendant's perspective, if it's evidence by which a
6 reasonable inference could be drawn that Mr. Mbom
7 participated in the scheme to defraud, as alleged in Count
8 One, and then the -- this is my word -- subset, if you will,
9 of the anti-kickback conspiracy, which I think is really part
10 and parcel of the larger fraud, then it does go to the jury.

11 I do find that there is sufficient evidence by
12 which a jury could conclude guilt as to Counts One and three,
13 and it would be a fair and rational inference.

14 Of course, Mr. Robbins, you are free to resurrect
15 this motion at the conclusion of all the evidence. And if
16 there's something more specific you wish for me to consider
17 or look at, I'm happy to do it.

18 But as to your motion today, it is denied.

19 MR. ROBBINS: Understood, Your Honor.

JURY INSTRUCTION CONFERENCE

21 THE COURT: Okay. Jury instructions.

22 I have taken what you all have recently sent, and
23 I've inserted the additional instruction that I mentioned
24 before we broke, which is -- now is new Jury Instruction 20,
25 charts and summaries not admitted as evidence. That's the

1 only addition I made. So you have both charts and summaries,
2 admitted and not admitted.

3 And with that -- and obviously once we get to the
4 voir dire, Mr. Mbom, whichever way he goes, we'll prepare the
5 instructions accordingly.

6 I will say this, Counsel. Everyone should operate
7 in parallel tracks, though, because if for some reason
8 Mr. Mbom says one thing today and another thing Monday
9 morning, we will all be prepared to pivot and act
10 accordingly. So, if Mr. Mbom says today he's testifying and
11 decides otherwise, then we're going to go right to
12 closings -- instructions and closings and vice versa. So I
13 just wanted to put that out there so that there's no Monday
14 morning, Oh, please, please, please let's wait till
15 tomorrow;" okay?

16 With that, the first instruction -- wait a minute.
17 Let me get the redlined version.

18 You tell me the first instruction that you want me
19 to look at in order to resolve any dispute. Let me make sure
20 I have the same.

21 MS. COLLINS: Your Honor, I believe that is
22 Instruction 15.

23 THE COURT: Yeah, okay. All right.

24 And what's the Government's position on this added
25 language?

1 MS. COLLINS: Your Honor, we oppose the added
2 language. I think it's clear as written that answers are
3 evidence, and I think the jury understands how questions and
4 answers work.

5 So, I just find the additional added language to be
6 confusing.

7 MR. ROBBINS: Your Honor, before we get to that,
8 also, the language that was proposed is supposed to be the
9 penultimate sentence, not the ultimate sentence.

10 THE COURT: Yeah. I figured as much, that if I was
11 going to do it, I'd put it -- yeah. Yes.

12 MR. ROBBINS: It just -- it got put in the wrong
13 place.

14 It's understandable that the Government takes the
15 position that it does; but the way that the instruction is
16 presently structured, it all leans one direction. It seems
17 to cabin the jury on one side and not the other. It's really
18 up to the jury to decide what they're doing with an answer
19 once there is an answer. And there are two different ways
20 you can get an answer. The covered instruction doesn't seem
21 to acknowledge that there are two different ways you can get
22 there.

23 THE COURT: I mean, it's really just asking for a
24 balanced instruction. It's a good -- it's a point well
25 taken. Do I think it's going to be the hill to die on for

1 either side? No. But it does make sense to me.

2 I'm just going to try to simplify the language a
3 little bit so that it says -- right now it reads: "If the
4 witness denies the truth of a statement and there's no
5 evidence in the record proving the assumed fact is true, then
6 you may not consider the fact to be true simply because it
7 was contained in the lawyer's question. But if the witness
8 confirms the truth of a fact included in the lawyer's
9 question, then you may consider that fact to be true on the
10 basis of the witness's answer."

11 It seems to just give the flip in the cleanest way
12 I can think of. And then, of course, it will end: "In
13 short, questions are not evidence; answers are."

14 Okay. So that's -- I will make that change.

15 Okay. Next one.

16 MS. COLLINS: Your Honor, the next one -- and it's
17 the same objection with respect to each of the three
18 instructions that includes the indictment language that
19 starts on 39.

20 THE COURT: So, let me just ask you, before we get
21 there, there are some redlined changes made. And there is no
22 objection to those; am I getting that right?

23 So, for example, on 24, admission is now statements
24 of defendant, and there has been evidence that the defendant
25 made certain statements, period, in deciding.

JURY INSTRUCTION CONFERENCE

499

1 MS. COLLINS: That's correct, Your Honor. We agree
2 that we didn't think it was necessary to categorize them as
3 admissions or otherwise.

4 THE COURT: Okay.

5 And I just, let's make sure the record is clear. I
6 have no problem with adopting that, so we'll make the change.
7 Make the grammatical change on witness credibility, that
8 instruction. So, we'll accept that change.

9 MS. COLLINS: There was just a correction to the
10 title of 30(b). We're in agreement about that.

11 THE COURT: Okay. So depending on which way we go.
12 Okay.

13 The next one that I have, which I had a question
14 for you all on, is highlighted in the instruction on
15 willfully. I highlighted it because I didn't know if I was
16 giving the good faith instruction. It was in the
17 conditional.

18 MS. COLLINS: I think I would ask to hear from the
19 defense first on that one.

20 MR. ROBBINS: I think you will -- giving that
21 instruction is prudent, Your Honor. That's appropriate
22 for --

23 THE COURT: It seems to me it is, as well, but I
24 didn't know if you were asking for it.

25 MR. ROBBINS: It's the appropriate instruction to

1 give.

2 MS. COLLINS: No objection, Your Honor.

3 THE COURT: Okay. So then it'll read: "A
4 defendant's conduct is not willful if it was due to
5 negligence, inadvertence, mistake, or was the result of a
6 good faith misunderstanding of the requirement of the law.
7 In this connection, it is for you --" and then the rest of
8 it.

9 And I'll take out the parens. Okay. Very good.

10 And now we're at, I believe, the Count One, the
11 objected-to language.

12 MS. COLLINS: Yes, Your Honor.

13 THE COURT: Okay.

14 MS. COLLINS: So, my understanding is the defense
15 is proposing the language that's listed here at the beginning
16 of each heading, bolded heading, within the indictment
17 language; or beginning each of the paragraphs in the
18 indictment language, what the Government alleges. I think we
19 found that confusing to put that within the indictment
20 language. There's already in the introductory paragraph a
21 statement that's merely an accusation.

22 We don't have any objection to adding, you know,
23 "it's up to you to decide if it was proven by the evidence,"
24 which, I think, is the other substantive portion of that, but
25 we are just asking it not be broken up into the indictment

1 language itself.

2 THE COURT: Okay. I think I understand. Part of
3 this is a placement question.

4 MS. COLLINS: Yes, Your Honor.

5 THE COURT: And what you're asking for is, for
6 example, this was -- I took the indictment language and then
7 put, right before I was about to read it, "Count One of the
8 indictment charges conspiracy to commit healthcare fraud and
9 wire fraud."

10 Again, let me remind you, an indictment is not
11 evidence; it is merely an accusation. It will be up to
12 you -- what was that language? -- to decide if the accusation
13 or something to that effect. That's where you're saying if I
14 put anything else, it should go there?

15 MS. COLLINS: Yes, Your Honor. That's what we
16 would propose to put that there.

17 THE COURT: And then, you know, perhaps,
18 Mr. Robbins, what makes sense is the indictment as to Count
19 One alleges. So instead of reads, it alleges. And then I
20 read it.

21 But what else? Right now, to me, this was a very
22 clear statement that I could -- I'm going to say every time I
23 read that sort of relevant portion of the indictment, so it
24 shows up, I believe, in every -- it should -- as the
25 preliminary statement before I read the indictment.

1 So, with a couple tweaks -- well, right now it
2 would be: "Count One of the indictment charges conspiracy to
3 commit healthcare fraud and wire fraud. Again, let me remind
4 you, an indictment is not evidence. It is merely an
5 accusation. The indictment as to Count One alleges:"

6 What else would you want to put there?

7 MR. ROBBINS: Your Honor, I think the language that
8 was originally proposed works when it's a relatively
9 short-form indictment.

10 The problem that we have is that when it's a
11 long-form indictment, with lots of paragraphs, and the jury
12 has been instructed that they're being told controlling law
13 from the bench, if it goes on for too long on the indictment,
14 without a reminder somewhere that this is just at allegation,
15 then it starts to sound like the judge has decided all these
16 things and they don't need to think about it anymore. That's
17 the concern.

18 And there are a number of different ways to do it.
19 One is to say the Government alleges each time. I abandoned
20 that and did the, let's just do a reminder at the start of
21 each section. But then the Government didn't like that idea,
22 either, so I put them both back in.

23 My concern is that if we don't say something before
24 we get to the next instruction that says, "that's a reminder,
25 those are the allegations of the Government," it could Come

JURY INSTRUCTION CONFERENCE

503

1 At The Very End Of --

2 THE COURT: So i was about to say, what if I do it
3 at the end?

4 MR. ROBBINS: That would be perfect, Your Honor.

5 MS. COLLINS: No objection to putting it at the
6 end. We were just asking that it not be in the middle.

7 THE COURT: Yeah. So we can do it this way.

8 Because you've also, if I get it right, you've also
9 redlined out all the --

10 MR. ROBBINS: Yes.

11 THE COURT: -- the Medicaid and the --

12 MS. COLLINS: We have redlined out all the
13 background to try and streamline that.

14 MR. ROBBINS: The Government did a good job of
15 making it much more compact, but there's still bit of a
16 remaining concern.

17 THE COURT: It's still -- right. Okay. So let's
18 do this.

19 Okay. So, what I can do is I can start it as we --
20 what I just read to you, and then at the end of it conclude
21 with, "As I said, the indictment allegations are not
22 evidence; they are merely the allegations as to Count One."
23 Good?

24 MR. ROBBINS: That's perfect, Your Honor. And if
25 we do that for each of the three counts, I think we'll be

JURY INSTRUCTION CONFERENCE

504

1 there.

2 THE COURT: Okay. All right.

3 And Government doesn't have a problem with that?

4 MS. COLLINS: No, Your Honor.

5 THE COURT: Okay. So, let me make sure. Just give
6 me one second so I write it consistently.

7 That's Count One.

8 Then the next one is Jury Instruction, Count Two,
9 Conspiracy, which is old 49. It's going to be new 50.

10 All right. So, what I'm going to do is it doesn't
11 read identically, so I'm going to make sure it reads
12 identically. Count Two of the indictment charges, and do it
13 exactly the same way.

14 So, when we get this back to you in redline, please
15 check my work.

16 Insert. And then -- where are we with that? Okay.

17 Okay. All right. We've got that resolved.

18 What's the next one?

19 MS. COLLINS: The next is 42. It revises the
20 description of the wire fraud statute. We tried to -- there
21 were some sort of grammatical issues with how it was written
22 and then to make it conform a little more closely to the
23 statutory language.

24 THE COURT: Okay. And, Mr. Robbins, any issues
25 with this?

JURY INSTRUCTION CONFERENCE

505

1 MR. ROBBINS: No issues from the defense, Your
2 Honor.

3 THE COURT: Okay.

4 MS. COLLINS: And then the next is 43, the same
5 thing with the health care fraud statute.

6 THE COURT: And no issue?

7 MR. ROBBINS: And, again, we consent.

8 THE COURT: Okay. All right. Very good.

9 MS. COLLINS: There's a typographical question --
10 or typographical correction on Instruction 46.

11 THE COURT: So, the last part that you've redone --
12 oh, wait a minute.

13 MS. COLLINS: I was -- I think 46 is the venue. It
14 said "over elements" instead of "other elements."

15 THE COURT: Why don't I see it? Why am I missing
16 it? Oh, here we go. Okay.

17 And where am I looking? What line?

18 MS. COLLINS: At the very bottom.

19 THE COURT: Ah, got it. Okay. Yeah. Yep.

20 MS. COLLINS: And 47 there is, again, just a
21 typographical correction in the description right under the
22 heading. Commit and offense.

23 THE COURT: Yep. Got it.

24 MS. COLLINS: 48, again, just change the
25 description of the health care -- the false statement

JURY INSTRUCTION CONFERENCE

506

1 statute.

2 THE COURT: And no issue with that, Mr. Robbins?

3 MR. ROBBINS: No, Your Honor.

4 THE COURT: Okay. All righty.

5 MS. COLLINS: 49 I think we've addressed.

6 THE COURT: Looks like the next change is 53.

7 MS. COLLINS: At 52, there's a typographical
8 change. It says Counts 2 to Count Two in the first sentence.

9 THE COURT: Okay. Where am I? Why can't I see
10 this?

11 Which one are you at?

12 MS. COLLINS: Instruction 52.

13 THE COURT: 52 -- okay. I'm there. I see it, yep.
14 It's really small.

15 MS. COLLINS: Yeah, sorry.

16 THE COURT: No, it's not your fault. Even though
17 it's printed in color, I'm like -- okay.

18 MS. COLLINS: And then, yeah, 53 is the next
19 substantive change. So, again, we changed to conform that a
20 little more closely to the statutory language of the
21 Anti-Kickback Statute.

22 And then the other sort of substantive part there
23 is before it included offer, pay, solicit, receive, which are
24 all within the Anti-Kickback Statute, but the indictment
25 is -- the object of the indictment is specific offer and pay.

JURY INSTRUCTION CONFERENCE

507

1 THE COURT: Okay. So you just took those out.

2 MS. COLLINS: Yep.

3 THE COURT: Great.

4 And no problem with that, Mr. Robbins?

5 MR. ROBBINS: No objection, Your Honor.

6 THE COURT: Okay.

7 MS. COLLINS: And then 54 we've addressed.

8 Then the next instruction, which for some reason is
9 also coming up as 54 for me, we just changed the Roman
10 Numerals to the number 2.

11 THE COURT: Yep. I see that. And then we're going
12 to have to make sure that -- that's why I left it
13 highlighted, that we refer back to the right instruction for
14 the conspiracy instruction.

15 MS. COLLINS: Yeah.

16 THE COURT: The elements of the -- my intention was
17 to go back to the general.

18 So, with the inserted new instruction, the general
19 conspiracy elements, the first time it's mentioned is where?

20 MS. COLLINS: I think we added -- there's one
21 additional instruction. So I think it would be 51 --

22 THE COURT: 51, right?

23 MS. COLLINS: -- instead of 50. Yes.

24 THE COURT: Okay. That's what I have.

25 MS. COLLINS: One thing I would notice, Your Honor,

JURY INSTRUCTION CONFERENCE

508

1 it won't affect that, but it looks like there are two
2 Instruction 54s right now.

3 THE COURT: I saw that and I think Ms. Brown
4 changed it.

5 MS. COLLINS: Okay.

6 THE COURT: But we're going to double and triple
7 check the numbers because it got all wonky.

8 MS. COLLINS: I figured.

9 And then I believe that is everything.

10 THE COURT: Okay. So then let's make sure.

11 Yeah, the other place that we're going to make
12 sure, so the conspiracy charge is like a Hummel doll. It's,
13 the first ones are the first three elements, and then we have
14 the second one that adds an element, and then the third one
15 goes back to the second one. So we'll make sure that all of
16 the instructions line up.

17 That was actually a suggestion the last jury I had
18 made, is to put the instruction that it refers back to --
19 instead of saying, "I've previously instructed you on
20 conspiracy," which I thought was a good suggestion, so that's
21 why we're going to do it here. And it doesn't sound like
22 anyone has a problem with that.

23 MR. ROBBINS: I don't believe I've had a jury
24 review, Your Honor.

25 THE COURT: What -- yes.

JURY INSTRUCTION CONFERENCE

509

1 MR. ROBBINS: I don't believe I've done a jury
2 review. You give a copy of the written instructions to the
3 jury?

4 THE COURT: I do to every juror as well as a
5 verdict form to every juror so that they're not sharing,
6 especially in these post-pandemic times.

7 MR. ROBBINS: Understood.

8 THE COURT: Everyone gathered around 50 pages is
9 not a good look. So they get their own.

10 MR. ROBBINS: Okay. Thank you, Your Honor.

11 THE COURT: Okay. Anything else on the
12 instructions?

13 MS. COLLINS: Nothing for the Government, Your
14 Honor.

15 MR. ROBBINS: Nothing from the defense.

16 THE COURT: Okay. Then we'll make these changes,
17 get it back to you for one more read.

18 If you would just, overnight if you find anything,
19 any typos, any nits or anything more specific that you want
20 me to address, just put them in an email so we make sure we
21 get the cleanest copy for Monday.

22 Okay. Mr. Robbins?

23 MR. ROBBINS: Thank you, Your Honor.

24 We're at the stage where you want to know whether
25 or not Mr. Mbom is going to testify.

JURY INSTRUCTION CONFERENCE

510

1 THE COURT: Yeah, I'm happy to voir dire him, or do
2 you want to do it and then I'll come behind you? How would
3 you like to do that?

4 MR. ROBBINS: I'll lay the groundwork, Your Honor.

5 THE COURT: Okay. All right.

6 MR. ROBBINS: Do you want him under oath?

7 THE COURT: Yes. Yes. Absolutely.

8 Okay. So, Mr. Gurevich, would you place Mr. Mbom?

9 THE CLERK: Raise your right hand for me, please.

10 (Oath administered.)

11 DEFENDANT: I do.

12 THE CLERK: Would you please state your full name
13 for the record, please.

14 DEFENDANT: Lambert Mbom.

15 THE CLERK: Thank you. You may lower your hand.

16 MR. ROBBINS: Good afternoon, sir.

17 THE DEFENDANT: Good afternoon.

18 MR. ROBBINS: We've been working on this case
19 together for a while now; right?

20 THE DEFENDANT: Correct.

21 MR. ROBBINS: So, one of the things that we've
22 talked about from fairly early on was what was implied if you
23 testified or didn't testify.

24 THE COURT: And you all can sit if it's easier to
25 speak into the microphone.

JURY INSTRUCTION CONFERENCE

511

1 MR. ROBBINS: Thank you, Your Honor.

2 THE COURT: Sure.

3 MR. ROBBINS: You understand that it's absolutely
4 your right to make the decision whether or not you testify in
5 this case?

6 THE DEFENDANT: I do.

7 MR. ROBBINS: You understand that the jury will be
8 instructed if you choose not to testify that they cannot
9 consider that in any way against you in determining what the
10 outcome of this case will be?

11 THE DEFENDANT: I do.

12 MR. ROBBINS: You also understand that 3if you
13 choose to testify, there's another instruction the jury would
14 get that says they need to consider you like any other
15 witness and determine whether you have any interests that
16 might influence what you say?

17 THE DEFENDANT: I do.

18 MR. ROBBINS: You've had an opportunity to listen
19 to all of the evidence given in this case?

20 THE DEFENDANT: I have.

21 MR. ROBBINS: And you have, of course, communicated
22 with me over a long period of time about your desires in this
23 case?

24 THE DEFENDANT: I have.

25 MR. ROBBINS: Your final decision is one that we've

JURY INSTRUCTION CONFERENCE

512

1 reached just this afternoon; correct?

2 THE DEFENDANT: Correct.

3 MR. ROBBINS: So, the question the judge wants to
4 know is whether you would exercise your right to remain
5 silent and not testify or whether you prefer to testify in
6 the trial.

7 THE DEFENDANT: I will exercise my right to remain
8 silent.

9 THE COURT: Okay. All right.

10 Mr. Mbom, let me make sure today, are you under the
11 influence of any drugs or alcohol or anything that affects
12 your judgment? And what I mean by judgment is your ability
13 to understand what's going on around you and make decisions
14 for yourself.

15 DEFENDANT: I'm not.

16 THE COURT: Okay. And were you at any point during
17 this trial?

18 DEFENDANT: No. I have not.

19 THE COURT: Okay. Because I observed that you were
20 paying close attention, taking notes, participating with your
21 counsel.

22 So, the next question is: Today, do you suffer
23 from any mental or physical illness that would affect your
24 judgment?

25 DEFENDANT: No, Your Honor.

JURY INSTRUCTION CONFERENCE

513

1 THE COURT: Okay. And so it's fair that throughout
2 this trial you have been fully present, aware, and understood
3 what's going on, with the help of your counsel?

4 DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay. And knowing that, you are going
6 to exercise your constitutional right to remain silent -- and
7 I will make sure that the jury is properly instructed that
8 they are not to hold that decision against you. Okay?

9 DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you have any questions?

11 DEFENDANT: No, Your Honor.

12 THE COURT: Okay. Anything else either side wishes
13 for me to put on the record in that regard?

14 MR. SARMA: No, Your Honor.

15 MR. ROBBINS: No, Your Honor. Nothing from the
16 defense. Thank you.

17 THE COURT: Okay. So, then what we will do Monday
18 morning is I'm not going to make the -- unless you're --
19 Mr. Robbins, you're not putting on any other evidence;
20 correct?

21 MR. ROBBINS: That's correct, Your Honor.

22 THE COURT: Okay. So, I will just tell the jury
23 that I'm going to instruct them, and then we'll go right to
24 closing, okay? So that there's no -- nothing said either
25 way.

JURY INSTRUCTION CONFERENCE

514

1 And then closings, just roughly, timing?

2 MS. McKOY: An hour for the Government, Your Honor,
3 including rebuttal.

4 THE COURT: Okay.

5 MR. ROBBINS: I always try to come in under that,
6 but I'm not sure I'll promise you.

7 THE COURT: All right. Yeah, that's fine.

8 I just wanted to get a general sense of like when
9 we're going to have to order lunch and stuff like that.

10 Okay. All right.

11 So, between now and then, have you all made sure
12 exhibits are in good shape with Mr. Gurevich? Because that
13 would be a good thing to do today before you get out of here.

14 MS. COLLINS: We've been stamping and comparing
15 with him. And we will try to make sure that we have the
16 boxes that are ready with just the admitted exhibits.

17 THE COURT: And like a laptop that works with the
18 passwords? I mean, that's always a delay for us is...

19 MS. COLLINS: So, we have asked our paralegals that
20 nothing should be encrypted with passwords.

21 THE COURT: Okay. On the exhibits.

22 MS. COLLINS: On anything that's electronic that
23 are drives or disks should not have passwords.

24 THE COURT: Okay. We'll make sure.

25 Dennis, if you would make sure to talk to IT today

JURY INSTRUCTION CONFERENCE

515

1 about needing that jury laptop for Monday.

2 THE CLERK: Okay.

3 THE COURT: If it's working and maybe they can even
4 test it tomorrow to make sure everything works so they just
5 get it on Monday.

6 MS. COLLINS: And we're happy if it would help with
7 IT to get together just to actually test the disks and the
8 drives.

9 THE COURT: Maybe we can actually do it today since
10 you're here. You have it all?

11 MS. COLLINS: That would also be completely -- we
12 would be happy to do that.

13 THE COURT: That would probably be best.
14 Would you mind?

15 THE CLERK: I can contact IT, Your Honor.

16 THE COURT: Okay, great. Perfect.

17 Anything else we need to do before we see each
18 other again Monday morning?

19 MS. COLLINS: Nothing for the Government.

20 MR. ROBBINS: Nothing for the defense, Your Honor.

21 THE COURT: All right. Thank you all. We'll get
22 you the instructions shortly. Appreciate it.

23 THE CLERK: All rise. This court stands adjourned.

24 (Court is adjourned at 2:38 p.m.)

25 Transcript continues in Volume 4 at Page 517

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CERTIFICATE OF OFFICIAL REPORTER

I, Kathy Cortopassi, RDR, CRR, CRC, Federal Official Court Reporter, in and for the United States District Court for the District of Maryland, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this the 24th day of March, 2024.

/s/ Kathy Cortopassi
Kathy Cortopassi, RDR, CRR, CRC
U.S. Official Court Reporter